

Title 9
SURFACE WATER MANAGEMENT

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CROSS REFERENCE:

See K.C.C. chapter 20.14 for basin plans

9.02 GENERAL PROVISIONS

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9.02.010 Relationship to comprehensive plan and growth management act.

This Title is hereby enacted to be consistent with and implement the comprehensive plan in accordance with RCW 36.70A. (Ord. 11615 § 1 (part), 1994).

9.02.020 Notification to tribes. The county recognizes that many actions undertaken pursuant to Title 9, as amended, may impact treaty fishing rights of federally-recognized tribes. In order to honor and prevent interference with these treaty fishing rights and to provide for water quality and habitat preservation, the county shall provide notice to any federally-recognized tribes whose treaty fishing rights would be affected by an action undertaken pursuant to this title, including but not limited to: development of wetlands, stream and river banks, lakeshore habitat of water bodies, or development directly or indirectly affecting anadromous bearing water bodies, including the promulgation of plans, rules, regulations or ordinances implementing the provisions of this title, whether or not review of such actions is required under the State Environmental Policy Act (SEPA) RCW 43.21C. (Ord. 11615 § 1 (part), 1994).

9.04 SURFACE WATER RUNOFF POLICY

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9.04.005 Scope. Compliance with the standards in this chapter and the Surface Water Design Manual does not necessarily mitigate all probable and significant environmental impacts to aquatic biota. Fishery resources and other living components of aquatic systems are affected by a complex set of factors. While employing a specific flow control standard may prevent stream channel erosion or instability, other factors affecting fish and other biotic resources (such as increases in stream flow velocities) are not directly addressed by the Surface Water Design Manual. Thus, compliance with this manual should not be construed as mitigating all probable and significant stormwater impacts, and additional mitigation may be required to protect aquatic biota in streams and wetlands. (Ord. 13191 § 22, 1998).

9.04.010 Purposes. The council finds this chapter is necessary in order to promote the public health, safety and welfare by providing for the comprehensive management of surface and storm waters and erosion control, especially that which preserves and utilizes the many values of the county's natural drainage system including open space, fish and wildlife habitat, recreation, education and urban separation. The council also finds that King County shall conduct programs to reduce flooding, erosion, and sedimentation; prevent and mitigate habitat loss; enhance groundwater recharge; and prevent water quality degradation through the implementation of comprehensive and thorough permit review, construction inspection, enforcement, and maintenance in order to promote the effectiveness of the requirements contained in this chapter. (Ord. 11615 § 2, 1994: Ord. 9163 § 1, 1989).

9.04.020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

A. "Adjustment" means a department-approved variation in the application of the requirements of K.C.C. 9.04.050 and the Surface Water Design Manual to a particular project in accordance with K.C.C. 9.04.050C. "Adjustment" replaces "variance," which was used in prior editions of the Surface Water Design Manual.

B. "Applicant" means a property owner or a public agency or public or private utility that owns a right-of-way or other easement or has been adjudicated the right to such an easement under RCW 8.12.090, or any person or entity designated or named in writing by the property or easement owner to be the applicant, in an application for a development proposal, permit or approval.

C. "Basin" means a geographic area that contains and drains to a stream or river named and noted on common maps, such as the Cedar river, Sammamish river, Green river, Snoqualmie river, Skykomish river or White river, or a geographic area that drains to a nonflowing water body named and noted on common maps, such as Lake Washington or Puget Sound.

D. "Basin plan" means a plan and all implementing regulations and procedures including, but not limited to, capital projects, public education activities and land use management adopted by ordinance for managing surface and storm water within the basin.

E. "Closed depression" means an area greater than five thousand square feet at overflow elevation that is low-lying and that has no or such a limited surface water outlet that the area acts as a stormwater retention facility.

F. "Construct or modify" means to install a new drainage pipe or ditch or make improvements to an existing drainage pipe or ditch, for purposes other than maintenance, that either serves to concentrate previously unconcentrated surface and storm water runoff or serves to increase, decrease or redirect the conveyance of surface and storm water runoff. "Construct or modify" does not include installation or maintenance of a driveway culvert installed as part of a single-family residential building permit.

G. "Conveyance system" means the drainage facilities and features, both natural and constructed, that collect, contain and provide for the flow of surface and storm water from the highest points on the land down to a receiving water. The natural elements of the conveyance system include swales and small drainage courses, streams, rivers, lakes and wetlands. The constructed elements of the conveyance system include gutters, ditches, pipes, channels and most flow control and water quality treatment facilities.

H. "Department" means the department of natural resources and parks or its successor.

I. "Development" means any activity that requires a permit or approval, including, but not limited to, a building permit, grading permit, shoreline substantial development permit, conditional use permit, special use permit, zoning variance or reclassification, subdivision, short subdivision, urban planned development, binding site plan, site development permit or right-of-way use permit. "Development" does not include forest management activities, as defined in K.C.C. chapter 21A.06.

J. "Director" means the director of the department of natural resources and parks, or any duly authorized representative of the director.

K. "Drainage" means the collection, conveyance, containment or discharge, or any combination thereof, of surface and storm water runoff.

L. "Drainage facility" means a constructed or engineered feature that collects, conveys, stores or treats surface and storm water runoff. "Drainage facility" includes, but is not limited to, a constructed or engineered stream, pipeline, channel, ditch, gutter, lake, wetland, closed depression, flow control or water quality treatment facility, erosion and sediment control facility and other structure and appurtenance that provides for drainage.

M. "Drainage review" means an evaluation by King County staff of a proposed project's compliance with the drainage requirements in the Surface Water Design Manual. The types of drainage review include: Small project drainage review, targeted drainage review, full drainage review and large project drainage review.

N. "Erosion and sediment control" means any temporary or permanent measures taken to reduce erosion, control siltation and sedimentation and ensure that sediment-laden water does not leave the site or enter into wetlands or aquatic areas.

O. "Financial guarantee" means a form of financial security posted to do one or more of the following: ensure timely and proper completion of improvements; ensure compliance with the King County Code; or provide secured warranty of materials, workmanship of improvements and design. "Financial guarantees" include assignments of funds, cash deposit, surety bonds or other forms of financial security acceptable to the director of the department of permitting and environmental review. "Performance guarantee," "maintenance guarantee" and "defect guarantee" are considered sub categories of financial guarantee.

P. "Flood hazard management plan" means a plan and all implementing goals, objectives, guiding principles, policies and programs, including, but not limited to, capital projects, public outreach and education activities and enforcement programs for reduction of flood risks and prepared in accordance with RCW 86.12.200.

Q. "Flow control best management practice" means a method or design for dispersing, infiltrating or otherwise reducing or preventing development-related increases in surface and storm water runoff at, or near, the sources of those increases. "Flow control best management practice" includes the methods and designs specified in the Surface Water Design Manual.

R. "Flow control facility" means a drainage facility designed to mitigate the impacts of increased surface and storm water runoff generated by site development in accordance with the drainage requirements in this chapter. A "flow control facility" is designed either to hold water for a considerable length of time and then release it by evaporation, plant transpiration or infiltration into the ground or to hold runoff for a short period of time and then release it to the conveyance system.

S. "Full drainage review" means the evaluation required by K.C.C. 9.04.030 for any proposed project, unless the project is subject to small project drainage review, targeted drainage review or large project drainage review, that:

1. Would result in two thousand square feet or more of new impervious surface;
2. Would result in thirty-five thousand square feet or more of new pervious surface: or

3. Is a redevelopment project on one or more parcels where the total of new and replaced impervious surface is five thousand square feet or more and when the valuation of proposed improvements exceeds fifty percent of the assessed value of the existing site improvements, including interior improvements and excluding required mitigation and frontage improvements.

T. "High-use site" means a commercial, industrial or road intersection site that generates a higher than average number of vehicle turnovers or has other characteristics that generate the potential for chronic oil accumulation. "High use site" includes:

1. A commercial or industrial site subject to:
 - a. an expected daily traffic count greater than one hundred vehicles per one thousand square feet of gross building area;
 - b. petroleum storage or transfer in excess of one thousand gallons per year, not including routine fuel oil storage or transfer; or
 - c. use, storage or maintenance of a fleet of twenty-five or more diesel vehicles each weighing over ten tons; or

2. A road intersection with average daily traffic counts of twenty-five thousand vehicles or more on the main roadway and fifteen thousand or more vehicles on any intersecting roadway, excluding pedestrian or bicycle use improvement projects.

U. "Hydraulically connected" means connected through surface flow or water features such as wetlands or lakes.

V. "Impervious surface" means a hard surface area that either prevents or retards the entry of water into the soil mantle as under natural conditions before development or that causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions before development. Common impervious surfaces include, but are not limited to, roofs, walkways, patios, driveways, parking lots, storage areas, areas that are paved, graveled or made of packed or oiled earthen materials or other surfaces that similarly impede the natural infiltration of surface and storm water. An open uncovered flow control or water quality treatment facility is not an "impervious surface."

W. "Improvement" means a permanent, human-made, physical change to land or real property including, but not limited to, buildings, streets, driveways, sidewalks,

crosswalks, parking lots, water mains, sanitary and storm sewers, drainage facilities and landscaping.

X. "Land disturbing activity" means an activity that results in a change in the existing soil cover, both vegetative and nonvegetative, or to the existing soil topography. "Land disturbing activity" includes, but is not limited to, demolition, construction, clearing, grading, filling, excavation and compaction. "Land disturbing activity" does not include tilling conducted as part of agricultural practices, landscape maintenance or gardening.

Y. "Lake management plan" means a plan describing the lake management recommendations and requirements adopted by public rule for managing water quality within individual lake basins.

Z. "Large project drainage review" means the evaluation required by K.C.C. 9.04.030 for any proposed project that:

1. Has an urban plan development land use designation in the King County Comprehensive Plan land use map;

2. Would, at full buildout of the project site, result in fifty acres or more of new impervious surface within a drainage subbasin or a number of subbasins hydraulically connected across subbasin boundaries; or

3. Has a project site of fifty acres or more within a critical aquifer recharge area, as defined in K.C.C. Title 21A.

AA. "Licensed civil engineer" means a person registered with the State of Washington as a professional engineer in civil engineering.

BB. "Maintenance" means those usual activities taken to prevent a decline, lapse or cessation in the use of currently serviceable structures, facilities, equipment or systems, if there is no expansion of the structure, facilities, equipment or system and there are no significant hydrologic impacts. "Maintenance" includes the repair or replacement of nonfunctional facilities or the replacement of existing structures with different types of structures, if the repair or replacement is required by one or more environmental permits or to meet current engineering standards and the functioning characteristics of the original facility or structure are not changed.

CC. "Master drainage plan" means a comprehensive drainage control plan intended to prevent significant adverse impacts to the natural and constructed drainage system, both on- and off-site.

DD. "Native vegetated surface" means a surface in which the soil conditions, ground cover and species of vegetation are like those of the original native condition for the site, as more specifically set forth in the Surface Water Design Manual.

EE. "Natural discharge location" means the location where runoff leaves the project site under existing site conditions as defined in the Surface Water Design Manual.

FF. "New impervious surface" means the creation of a hard or compacted surface such as roofs, pavement, gravel or dirt or the addition of a more compacted surface such as the paving of existing dirt or gravel.

GG. "New pervious surface" means the conversion of a native vegetated surface or other native surface to a nonnative pervious surface, including, but not limited to, pasture land, grassland, cultivated land, lawn, landscaping or bare soil or any alteration of existing nonnative pervious surface that results in increased surface and storm water runoff as defined in the Surface Water Design Manual.

HH. "Pollution-generating impervious surface" means an impervious surface considered to be a significant source of pollutants in surface and storm water runoff. "Pollution-generating impervious surface" includes those surfaces subject to vehicular use or storage of erodible or leachable materials, wastes or chemicals and that receive direct rainfall or the run-on or blow-in of rainfall. A covered parking area would be included if runoff from uphill could regularly run through it or if rainfall could regularly blow in and wet

the pavement surface. Metal roofs are also considered pollution-generating impervious surface unless they are treated to prevent leaching.

II. "Pollution-generating pervious surface" means a nonimpervious surface considered to be a significant source of pollutants in surface and storm water runoff. "Pollution-generating pervious surfaces" include surfaces subject to the use of pesticides and fertilizers, to the use or storage of erodible or leachable materials, wastes or chemicals or to the loss of soil. "Pollution-generating pervious surface" includes, but is not limited to, the lawn and landscaped areas of a residential or commercial site, golf course, park sports field and county-standard grassed modular grid pavement.

JJ. "Project" means any proposed action to alter or develop a site that may also require drainage review.

KK. "Project site" means the portion of a site and any offsite areas subject to proposed project activities, alterations and improvements including those required by this chapter.

LL. "Redevelopment project" means a project that proposes to add, replace or modify impervious surface for purposes other than a residential subdivision or maintenance on a site that:

1. Is already substantially developed in a manner that is consistent with its current zoning or with a legal nonconforming use; or
2. Has an existing impervious surface coverage of thirty-five percent or more.

MM. "Replaced impervious surface" means an existing impervious surface proposed to be removed and reestablished as impervious surface, excluding impervious surface removed for the sole purpose of installing utilities or performing maintenance. For purposes of this definition, "removed" includes the removal of buildings down to bare soil or the removal of Portland cement concrete slabs or pavement or asphaltic concrete pavement.

NN. "Runoff" means that portion of water originating from rainfall and other precipitation that flows over the surface or just below the surface from where it fell and is found in drainage facilities, rivers, streams, springs, seeps, ponds, lakes, wetlands and shallow groundwater as well as on ground surfaces. For the purpose of this definition, groundwater means all waters that exist beneath the land surface or beneath the bed of any stream, lake or reservoir, or other body surface water, whatever may be the geological formation or structure in which such water stands or flows, percolates or otherwise moves.

OO. "Salmon conservation plan" means a plan and all implementing regulations and procedures including, but not limited to, land use management adopted by ordinance, capital projects, public education activities and enforcement programs for conservation and recovery of salmon within a water resource inventory area designated by the state under WAC 173-500-040.

PP. "Shared facility" means a drainage facility designed to meet one or more of the requirements of K.C.C. 9.04.050 for two or more separate projects contained within a basin. Shared facilities usually include shared financial commitments for those drainage facilities.

QQ. "Site" means a single parcel, or two or more contiguous parcels that are under common ownership or documented legal control, used as a single parcel for a proposed project for purposes of applying for authority from King County to carry out a proposed project. For projects located primarily within dedicated rights-of-way, "site" includes the entire width of right-of-way subject to improvements proposed by the project.

RR. "Small project drainage review" means the drainage review for a proposed single-family residential project or agricultural project that:

1. Would result in:

a. ten thousand square feet or less of total impervious surface added on or after January 8, 2001; or

b. four percent or less of total impervious surface on a site as specified in the Surface Water Design Manual; and

2. Meets the small project drainage requirements specified in the Surface Water Design Manual, including flow control best management practices, erosion and sediment control measures and drainage plan submittal requirement; and

3. Limits new pervious surface as specified in the Surface Water Design Manual.

SS. "Stormwater compliance plan" means a plan or study and all regulations and procedures that have been adopted by the county to implement the plan or study, including, but not limited to, capital projects, public education activities and enforcement programs for managing stormwater quantity and quality discharged from the county's municipal separate storm sewer system in compliance with the National Pollutant Discharge Elimination System permit program under the Clean Water Act.

TT. "Subbasin" means a geographic area that:

1. Drains to a stream or water body named and noted on common maps; and

2. Is contained within the basin of the stream or water body.

UU. "Surface and storm water" means water originating from rainfall and other precipitation that is found on ground surfaces and in drainage facilities, rivers, streams, springs, seeps, ponds, lakes, wetlands as well as and shallow ground water.

VV. "Surface Water Design Manual" means the manual, and supporting documentation referenced or incorporated in the manual, describing surface and storm water design and analysis requirements, procedures and guidance that has been formally adopted by rule under the procedures in K.C.C. chapter 2.98. The Surface Water Design Manual is available from the department of permitting and environmental review or the department of natural resources and parks, water and land resources division or their successor agencies.

WW. "Targeted drainage review" means an abbreviated evaluation required by K.C.C. 9.04.030 for certain types of proposed projects that are not subject to full or large project drainage review. Targeted drainage review may be required for some projects in small project drainage review.

XX. "Water quality treatment facility" means a drainage facility designed to reduce pollutants once they are already contained in surface and storm water runoff. A water quality treatment facility is the structural component of best management practices. When used singly or in combination, a water quality treatment facility reduces the potential for contamination of both surface and ground waters. (Ord. 17539 § 1, 2013: Ord. 17420 § 16, 2012: Ord. 16264 § 1, 2008: 15052 § 1, 2004: Ord. 14199 § 128, 2001: Ord. 13191 § 1, 1998: Ord. 12196 § 1, 1996: Ord. 12020 § 37, 1995: Ord. 11700 § 1, 1995: Ord. 11615 § 2, 1994: Ord. 9163 § 2, 1989).

9.04.030 Drainage review - when required - type.

A. Drainage review is required when any proposed project is subject to a King County development permit or approval and:

1. Would result in two thousand square feet or more of new impervious surface, replaced impervious surface or new plus replaced impervious surface;

2. Would involve seven thousand square feet or more of land disturbing activity;

3. Would construct or modify a drainage pipe or ditch that is twelve inches or more in size or depth or receives surface and storm water runoff from a drainage pipe or ditch that is twelve inches or more in size or depth;

4. Contains or is adjacent to a flood hazard area as defined in K.C.C. chapter 21A.24;

5. Is located within a critical drainage area;

6. Is a redevelopment project proposing one hundred thousand dollars or more of improvements to an existing high-use site; or

7. Is a redevelopment project on a site in which the total of new plus replaced impervious surface is five thousand square feet or more and whose valuation of proposed improvements, including interior improvements and excluding required mitigation and frontage improvements, exceeds fifty percent of the assessed value of the existing site improvements.

B. The drainage review for any proposed project shall be scaled to the scope of the project's size, type of development and potential for impacts to the regional surface water system to facilitate preparation and review of project applications. If drainage review for a proposed project is required under subsection A. of this section, the department of permitting and environmental review shall determine which of the following drainage reviews apply as specified in the Surface Water Design Manual:

1. Small project drainage review;
2. Targeted drainage review;
3. Full drainage review; or
4. Large project drainage review. (Ord. 17420 § 17, 2012: Ord. 16264 § 2, 2008: Ord. 15052 § 2, 2004: Ord. 13191 § 2, 1998: Ord. 11615 § 4, 1994: Ord. 11016 § 13, 1993: Ord. 9163 § 3, 1989).

9.04.050 Drainage review - requirements.

A. A proposed project required to have drainage review by K.C.C. 9.04.030 must meet each of the following core requirements, which are described in detail in the Surface Water Design Manual. Projects subject only to small project drainage review that meet the small project drainage requirements specified in the Surface Water Design Manual, including flow control best management practices, erosion and sediment control measures and drainage plan submittal requirements are deemed to comply with the following core requirements:

1. Core requirement 1: Discharge at the natural location. All surface and storm water runoff from a project shall be discharged at the natural location so as not to be diverted onto, or away from, downstream properties. The manner in which runoff is discharged from the project site shall not create a significant adverse impact or significantly aggravate an existing adverse impact to downhill properties or drainage systems as specified in the discharge requirements of the Surface Water Design Manual;

2. Core requirement 2: Offsite analysis. The initial application submittal for proposed projects shall include an offsite analysis report that assesses potential offsite drainage and water quality impacts associated with development of the proposed site and proposes appropriate mitigations to those impacts. This initial submittal shall include, at minimum, a Level One downstream analysis as described in the Surface Water Design Manual. If impacts are identified, the proposed projects shall meet any applicable problem-specific requirements as specified in the Surface Water Design Manual;

3. Core Requirement 3: Flow control. Proposed projects that would result in two thousand square feet or more of new impervious surface or thirty-five thousand square feet or more of new pervious surface, or that are redevelopment projects that would result in a total of five thousand square feet or more of new and replaced impervious surface, shall provide flow control facilities or flow control BMPs, or both, to control surface and storm water runoff generated by new impervious surface, new pervious surface, replaced impervious surface and any existing impervious surface added on or after January 8, 2001, as specified in the Surface Water Design Manual. Flow control facilities shall meet the area-specific flow control facility requirements and

the flow control facility implementation requirements applicable to the project site as specified in the Surface Water Design Manual. Flow control BMPs shall also be applied as specified in the Surface Water Design Manual. Projects subject to area-specific flow control facility requirements shall meet one of the flow control facility performance criteria listed in a. through c. of this subsection A.3., as directed by the Surface Water Design Manual:

a. Level One shall match the predeveloped site's peak discharge rates for the two-year and ten-year return periods;

b. Level Two shall meet Level One criteria and also match the predeveloped site's discharge durations for the predeveloped peak discharge rates between the fifty percent of the two-year peak flow through the fifty-year peak flow; or

c. Level Three shall meet Level Two criteria and also match the predeveloped site's peak discharge rate for the one hundred-year return period;

4. Core requirement 4: Conveyance system. All engineered conveyance system elements for proposed projects shall be analyzed, designed and constructed to provide the minimum level of protection against overtopping, flooding, erosion and structural failure as specified by the conveyance requirements for new and existing systems and conveyance implementation requirements described in the Surface Water Design Manual;

5. Core requirement 5: Erosion and sediment control. All proposed projects that will clear, grade or otherwise disturb the site shall provide erosion and sediment control that prevents, to the maximum extent practicable, the transport of sediment from the site to drainage facilities, water resources and adjacent properties. Erosion and sediment controls shall be applied in accordance with K.C.C. chapter 16.82 as specified by the temporary erosion and sediment control measures and performance criteria and implementation requirements in the King County Surface Water Design Manual;

6. Core requirement 6: Maintenance and operation. Maintenance of all drainage facilities in compliance with King County maintenance standards is the responsibility of the applicant or property owner as described in the Surface Water Design Manual, except those facilities for which King County assumes maintenance and operation as described in K.C.C. 9.04.115 and 9.04.120 and the Surface Water Design Manual;

7. Core requirement 7: Financial guarantees and liability. All drainage facilities constructed or modified for projects, except downspout infiltration and dispersion systems for single family residential lots, must comply with the liability requirements of K.C.C. 9.04.100 and the financial guarantee requirements of K.C.C. Title 27A;

8. Core requirement 8: Water quality. Proposed projects that would result in five thousand square feet or more of new pollution generating impervious surface or thirty-five thousand square feet or more of new pollution-generating pervious surface, or that are redevelopment projects that would result in a total of five thousand square feet or more of new and replaced pollution-generating impervious surface, shall provide water quality treatment facilities to treat polluted surface and storm water runoff generated by new or replaced pollution-generating impervious surface, new pollution-generating pervious surface and any existing pollution-generating impervious surface added on or after January 8, 2001, as specified in the Surface Water Design Manual. However, pervious surfaces are specifically excluded if there is a good faith agreement with the King Conservation District to implement a farm management plan for agricultural uses, and pervious areas for other uses are specifically excluded if King County department of permitting and environmental review approves a landscape management plan that controls pesticides and fertilizers leaving the site. Water quality treatment facilities shall meet the area-specific water quality treatment requirements and the water quality implementation requirements applicable to the project site as specified in the Surface

Water Design Manual. The facilities specified by these requirements are designed to reduce pollutant loads according to the applicable annual average performance goals listed in a. through d. of this subsection A.8. for ninety-five percent of the annual average runoff volume:

- a. for basic water quality: remove eighty percent of the total suspended solids;
- b. for enhanced basic water quality: remove fifty percent of the total zinc;
- c. for sensitive lake protection: remove fifty percent of the total phosphorus;

and

d. for sphagnum bog protection: remove fifty percent of the total phosphorus and forty percent of the total nitrate plus nitrite. The discharge shall maintain a pH of less than 6.5 and an alkalinity of less than ten milligrams per liter.

B. A proposed project required by K.C.C. 9.04.030 to have drainage review shall meet any of the following special requirements that apply to the site and that are described in detail in the Surface Water Design Manual. The department of permitting and environmental review shall verify if a proposed project is subject to and must meet any of the following special requirements.

1. Special Requirement 1: Other adopted area-specific requirements. If a proposed project is in a designated critical drainage area, or is in an area included in an adopted master drainage plan, basin plan, salmon conservation plan, stormwater compliance plan, flood hazard management plan, lake management plan or shared facility plan, then the proposed project shall meet the applicable drainage requirements of the critical drainage area, master drainage plan, basin plan, salmon conservation plan, stormwater compliance plan, flood hazard management plan, lake management plan or shared facility plan;

2. Special Requirement 2: Floodplain/floodway delineation. If a proposed project contains or is adjacent to a stream, lake, wetland or closed depression, or if other King County regulations require study of flood hazards relating to the proposed project, the one hundred year floodplain boundaries and floodway shall be determined and delineated on the site improvement plans and profiles and any final maps prepared for the proposed project. The flood hazard study shall be prepared for as specified in the Surface Water Design Manual;

3. Special Requirement 3: Flood protection facilities. If a proposed project contains or is adjacent to a stream that has an existing flood protection facility, such as a levee, revetment or berm, or proposes to either construct a new or modify an existing flood protection facility, then the flood protection facilities shall be analyzed and designed as specified in the Surface Water Design Manual to conform with the Federal Emergency Management Agency regulations as found in 44 C.F.R.;

4. Special Requirement 4: Source Control. If a proposed project requires a commercial building or commercial site development permit, then water quality source controls shall be applied to prevent rainfall and runoff from coming into contact with pollutants to the maximum extent practicable. Water quality source controls shall be applied in accordance with K.C.C. chapter 9.12, the King County stormwater pollution prevention manual and the Surface Water Design Manual. All structural source controls shall be identified on the site improvement plans and profiles or final maps prepared for the proposed project; and

5. Special Requirement 5: Oil control. If a proposed project is a high-use site or is a redevelopment project proposing one hundred thousand dollars or more of improvements to an existing high-use site, then oil control shall be applied to all runoff from the high-use portion of the site as specified in the Surface Water Design Manual.

C.1. An adjustment to the requirements contained in this section or other requirements in the Surface Water Design Manual may be proposed. The resulting

development shall be subject to all of the remaining terms and conditions of this chapter and the adjustment shall:

- a. produce a compensating or comparable result in the public interest; and
- b. meet this chapter's objectives of safety, function, appearance, environmental protection and maintainability based upon sound engineering judgment.

2. If complying with subsection C.1.a. of this section will deny all reasonable use of a property, the best practicable alternative shall be obtained as determined by the director of the department of permitting and environmental review according to the adjustment process defined in the Surface Water Design Manual.

3. Requests for adjustments that may conflict with the requirements of any other King County division shall require review and concurrence with that division.

4. A request for an adjustment is a Type 1 land use decision as provided for in K.C.C. 20.20.020 and shall be processed in accordance with the procedures specified in the Surface Water Design Manual.

5. The county may require monitoring of experimental designs and technology or untested applications proposed by the applicant in order to determine compliance with subsection C.1. of this section and the approved plans and conditions.

6. The applicant may appeal an adjustment decision by following the appeal procedures as specified in the Surface Water Design Manual.

D. The drainage review requirements in this section and in the Surface Water Design Manual may be modified or waived under the procedures in K.C.C. 21A.55.060. (Ord. 17539 § 2, 2013: Ord. 17420 § 18, 2012: Ord. 16264 § 3, 2008: Ord. 15052 § 3, 2004: Ord. 14662 § 2, 2003: Ord. 13191 § 4, 1998: Ord. 12822 § 1, 1997: Ord. 12020 § 38, 1995: Ord. 12001 § 1, 1995: Ord. 11615 § 5, 1994: Ord. 10570 § 1, 1992: Ord. 9163 § 5, 1989: Ord. 7817 § 2, 1986: Ord. 4938 § 5, 1980: Ord. 2812 § 3, 1976: Ord. 2281 § 5, 1975).

9.04.060 Critical drainage and/or erosion areas. Development in areas where the department has determined that the existing flooding, drainage and/or erosion conditions present an imminent likelihood of harm to the welfare and safety of the surrounding community shall meet special drainage requirements set by the director until such time as the community hazard is alleviated. Such conditions may include the limitation of the volume of discharge from the subject property to predevelopment levels, preservation of wetlands or other natural drainage features or other controls necessary to protect against community hazard. Where alternate facility designs or methods will produce a compensating or comparable result in the public interest and which will meet this section's objectives of safety, function, appearance, environmental protection and maintainability, based upon sound engineering judgment, an adjustment to the special drainage requirements promulgated under this section may be proposed, provided that the resulting development shall be subject to all of the remaining terms and conditions of this chapter. Where application of this section will deny all reasonable use of a property and a facility or design that produces a compensating or comparable result cannot be obtained, then a best practicable alternative may be obtained, to be determined by the director of the department of permitting and environmental review according to the adjustment process defined in the Surface Water Design Manual. (Ord. 17420 § 19, 2012: Ord. 13191 § 5, 1998: Ord. 12001 § 2, 1995: Ord. 10570 § 2, 1992: Ord. 9163 § 6, 1989: Ord. 7990 § 4, 1987: Ord. 7817 § 2, 1986: Ord. 4938 § 6, 1980: Ord. 2812 § 4, 1976).

9.04.070 Engineering plans for the purposes of drainage review.

A.1. All engineering plans shall be submitted to the department of permitting and environmental review for review in accordance with the Surface Water Design Manual

except those drainage plans developed by, or under the review of, the department of natural resources and parks for either surface and storm water capital improvement, repair, maintenance or restoration projects or other linear government agency projects, such as roadways, railways, pipelines, utility lines and trails.

2. If engineering plans are returned for any reason, they shall be returned to the applicant.

3. All master drainage plans, if required, shall be submitted to the department of permitting and environmental review for review in accordance with the specifications in the Surface Water Design Manual. The master drainage plan process should commence at the same time as the state Environmental Policy Act (SEPA) process.

4. Drainage plans not subject to review by the department of permitting and environmental review under subsection A.1. of this section shall be reviewed by the department of natural resources and parks in accordance with K.C.C. 9.04.050. Project applicability and compliance with K.C.C. 9.04.050 shall be documented in writing and available for review.

B. The expiration time frames as specified in the Surface Water Design Manual shall apply to all permit and approval applications.

C. All plans shall be processed in accordance with the review procedures specified in the Surface Water Design Manual.

D. All submittal procedures, definitions and specifications for the required contents of engineering plans are presented in the Surface Water Design Manual. (Ord. 17420 § 20, 2012: Ord. 15052 §4, 2004: Ord. 14199 § 129, 2001: Ord. 13191 § 6, 1998: Ord. 12001 § 3, 1995: Ord. 11700 § 2, 1995: Ord. 9163 § 7, 1989: Ord. 7817 § 2, 1986: Ord. 2812 § 5, 1976: Ord. 2281 § 6, 1975).

9.04.090 Construction timing and final approval.

A. No work related to permanent or temporary storm drainage control for a permitted development may proceed without the approval of the director of the department of permitting and environmental review.

B. Erosion and sediment control measures associated with both the interim and permanent drainage systems shall be:

1. Constructed in accordance with the approved plan prior to any grading or land clearing other than that associated with an approved erosion and sediment control plan; and

2. Satisfactorily sequenced and maintained until all improvements, restoration, and landscaping associated with the permit and approvals for the project are completed and the potential for onsite erosion has passed.

C. The applicant shall have constructed and have in operation those portions of the drainage facilities necessary to accommodate the control of surface and storm water runoff discharging from the site before the construction of any other improvements or buildings on the site, or to final recording of a plat or short plat, unless upon written request of the applicant, the development engineer authorizes recording before construction of facilities in order to minimize impacts that may result from construction of facilities during inappropriate times of the year. (Ord. 17420 § 21, 2012: Ord. 15052 §5, 2004: Ord. 13694 § 83, 1999: Ord. 13191 § 7, 1998: Ord. 9163 § 8, 1989: Ord. 7990 § 5, 1987: Ord. 7817 § 2, 1986: Ord. 4938 § 7, 1980).

9.04.095 Vesting period for lots in final short plats. Unless the department finds that a change in conditions creates a serious threat to the public health or safety in the short subdivision, for a period of five years after recording, a lot within a short subdivision shall be governed by the provisions of this chapter in effect at the time a

fully completed application for short subdivision approval was filed in accordance with K.C.C. chapter 20.20. (Ord. 15052 § 9, 2004).

9.04.100 Liability insurance required. The applicant required to construct the drainage facility pursuant to K.C.C. chapter 9.04 shall maintain a combined single limit per occurrence liability policy in the amount established annually by the King County risk management program, which shall name King County as an additional insured and protect King County from liability relating to the construction or maintenance of the facility until construction approval or acceptance for maintenance, whichever is last. Proof of this required liability policy shall be provided to the director of permitting and environmental review prior to commencing construction of any drainage facility. If this liability insurance is not kept in effect as required, King County may initiate enforcement action pursuant to K.C.C. Title 23. (Ord. 17420 § 22, 2012: Ord. 13191 § 8, 1998: Ord. 12020 § 39, 1995: Ord. 11700 § 3, 1995: Ord. 9163 § 9, 1989: Ord. 7990 § 6, 1987: Ord. 7817 § 2, 1986: Ord. 4938 § 8, 1980: Ord. 2812 § 6, 1976: Ord. 2281 § 7, 1975).

9.04.105 Financial guarantees authorized. The department of permitting and environmental review (or its successor organization) is authorized to require all applicants issued permits or approvals under the provisions of the title to post financial guarantees consistent with the provisions of Title 27A. (Ord. 17420 § 23, 2012: Ord. 12020 § 33, 1995).

9.04.115 Drainage facilities accepted by King County for maintenance.

A. King County is responsible for the maintenance, including performance and operation, of drainage facilities which have formally been accepted for maintenance by the director.

B. King County may assume maintenance of privately maintained drainage facilities only if the following conditions have been met:

1. All necessary easements or dedications entitling the county to properly maintain the drainage facility have been conveyed to the county;

2. The director has determined that the facility is in the dedicated public road right-of-way or that maintenance of the facility will contribute to protecting or improving the health, safety and welfare of the community based upon review of the existence of or potential for:

- a. flooding,
- b. downstream erosion,
- c. property damage due to improper function of the facility,
- d. safety hazard associated with the facility,
- e. degradation of water quality or in-stream resources, or
- f. degradation to the general welfare of the community; and

3. The director has declared in writing acceptance of maintenance responsibility by the county. Copies of this document will be kept on file in the department of natural resources and parks, water and land resources division.

C. The director may terminate the department's assumption of maintenance responsibilities in writing after determining that continued maintenance will not significantly contribute to protecting or improving the health, safety and welfare of the community based upon review of the existence of or potential for:

1. Flooding,
2. Downstream erosion,
3. Property damage due to improper function of the facility,
4. Safety hazard associated with the facility,

5. Degradation of water quality or in-stream resources, or

6. Degradation to the general welfare of the community.

Copies of this document will be kept on file in the department of natural resources and parks, water and land resources division.

D. A drainage facility which does not meet the criteria of this section shall remain the responsibility of the applicant required to construct the facility and persons holding title to the property for which the facility was required. (Ord. 14199 § 130, 2001: Ord. 13191 § 10, 1998).

9.04.120 Drainage facilities not accepted by King County for maintenance.

A. The person or persons holding title to the property and the applicant required to construct a drainage facility shall remain responsible for the facility's continual performance, operation and maintenance in accordance with the standards and requirements of the department and remain responsible for any liability as a result of these duties. This responsibility includes maintenance of a drainage facility which is:

1. Under a maintenance guarantee or defect guarantee;

2. A private road conveyance system;

3. Released from all required financial guarantees prior to July 7, 1980;

4. Located within and serving only one single family residential lot;

5. Located within and serving a multifamily or commercial site unless the facility is part of an approved shared facility plan;

6. Located within or associated with an administrative or formal subdivision which handles runoff from an area of which less than two-thirds is designated for detached or townhouse dwelling units located on individual lots unless the facility is part of an approved shared facility plan;

7. Previously terminated for assumption of maintenance responsibilities by the department in accordance with K.C.C. 9.04.110; or

8. Not otherwise accepted by the county for maintenance.

B. Prior to the issuance of any of the permits for any multifamily or commercial project required to have a flow control or water quality treatment facility, the applicant shall record a declaration of covenant as specified in the Surface Water Design Manual. The restrictions set forth in such covenant shall include, but not be limited to, provisions for notice to the persons holding title to the property of a King County determination that maintenance and/or repairs are necessary to the facility and a reasonable time limit in which such work is to be completed.

1. In the event that the titleholders do not effect such maintenance and/or repairs, King County may perform such work upon due notice. The titleholders are required to reimburse King County for any such work. The restrictions set forth in such covenant shall be included in any instrument of conveyance of the subject property and shall be recorded with the records and licensing services division.

2. The county may enforce the restrictions set forth in the declaration of covenant provided in the Surface Water Design Manual.

C. Prior to the issuance of any of the permits and/or approvals for the project or the release of financial guarantees posted to guarantee satisfactory completion, the person or persons holding title to the subject property for which a drainage facility was required shall pay a fee established by the director of [the] department of permitting and environmental review to reasonably compensate the county for costs relating to inspection of the facility to ensure that it has been constructed according to plan and applicable specifications and standards.

D. The duties specified in this section with regard to payment of inspection fees and reimbursement of maintenance costs shall be enforced against the person or persons holding title to the property for which the drainage facility was required.

E. Where not specifically defined in this section, the responsibility for performance, operation and maintenance of drainage facilities and conveyance systems, both natural and constructed, shall be determined on a case-by-case basis. (Ord. 17420 § 24, 2012: Ord. 15971 § 56, 2007: Ord. 13191 § 11, 1998: Ord. 12020 § 40, 1995: Ord. 9006 § 1, 1989: Ord. 7990 § 7, 1987: Ord. 7817 § 2, 1986: Ord. 5824 § 9, 1982: Ord. 4938 § 10, 1980).

9.04.130 Hazards. Whenever the director determines that any existing construction site, erosion and sedimentation problem and/or drainage facility poses a hazard to life and limb, endangers any property, and/or adversely affects the condition or capacity of other drainage facilities, the safety and operation of county right-of-way, utilities, and/or other property owned or maintained by the county, the applicant/person to whom the permit was issued pursuant to K.C.C. 9.04.030, the owner of the property within which the drainage facility is located, the applicant/person responsible for maintenance of the facility, and/or other person or agent in control of said property, upon receipt of notice in writing from the director shall within the period specified therein repair or otherwise address the cause of the hazardous situation in conformance with the requirements of this chapter.

Should the director have reasonable cause to believe that the situation is so adverse as to preclude written notice, the director may take the measures necessary to eliminate the hazardous situation; provided that the director shall first make a reasonable effort to locate the owner before acting. In such instances the applicant of whom a drainage plan was required pursuant to K.C.C. 9.04.030, the owner of the property and/or the person responsible for the maintenance of the facility shall be obligated for the payment of all costs incurred. If costs are incurred and a financial guarantee pursuant to this chapter or other county requirement has been posted, the director shall have the authority to collect against the financial guarantee to cover costs incurred. (Ord. 13191 § 13, 1998: Ord. 12020 § 41, 1995: Ord. 11700 § 5, 1995: Ord. 9163 § 11, 1989: Ord. 7817 § 2, 1986: Ord. 5824 § 11, 1982: Ord. 4938 § 11, 1980).

9.04.140 Administration.

A. Administration.

1. The director is authorized to promulgate and adopt administrative rules under the procedures specified in K.C.C. chapter 2.98, for the purpose of implementing and enforcing the provisions of this chapter. Adopted administrative rules are available to the public from the department of permitting and environmental review or the department of natural resources and parks, water and land resources division. This includes, but is not limited to, the Surface Water Design Manual.

2. The director of department of permitting and environmental review is authorized to develop procedures for applying adopted rules and regulations during the review of permit applications for the development of land. These procedures may also be contained in the Surface Water Design Manual.

B. Inspections. The director is authorized to make such inspections and take such actions as may be required to enforce the provisions of this chapter.

C. Right of entry. Whenever necessary to make an inspection to enforce any of the provisions of this chapter, monitor for proper function of drainage facilities or whenever the director has reasonable cause to believe that violations of this chapter are present or operating on a subject property or portion thereof, the director may enter such premises at all reasonable times to inspect the same or perform any duty imposed upon the director by this chapter; provided that, if such premises or portion thereof is occupied,

the director shall first make a reasonable effort to locate the owner or other person having charge or control of the premises or portion thereof and demand entry.

D. Access. Proper ingress and egress shall be provided to the director to inspect, monitor or perform any duty imposed upon the director by this chapter. The director shall notify the responsible party in writing of failure to comply with this access requirement. Failing to obtain a response within seven days from the receipt of notification the director may order the work required completed or otherwise address the cause of improper access. The obligation for the payment of all costs that may be incurred or expended by the county in causing such work to be done shall thereby be imposed on the person holding title to the subject property. (Ord. 17420 § 25, 2012: Ord. 14199 § 131, 2001: Ord. 13191 § 14, 1998: Ord. 9163 § 12, 1989: Ord. 7990 § 8, 1987: Ord. 7817 § 2, 1986: Ord. 5824 § 10, 1982: Ord. 4938 § 12, 1980).

9.04.180 Enforcement. The director is authorized to enforce the provisions of this chapter, the ordinances and resolutions codified in it, and any rules and regulations promulgated thereunder pursuant to the enforcement and penalty provisions of K.C.C. Title 23. (Ord. 13191 § 17, 1998: Ord. 7990 § 9, 1987: Ord. 7817 § 2, 1986: Ord. 2909 § 3(part), 1976: Ord. 2281 (part), 1975).

9.04.192 Liberal construction. This chapter is exempted from the rule of strict construction and shall be liberally construed to give full effect to the objectives and purposes for which it was enacted. (Ord. 9163 § 17, 1989).

9.04.194 Implementation, review and revision. The department shall administer a training program for users of the Surface Water Design Manual. The department shall also conduct an on-going research program to evaluate the effectiveness of the requirements in meeting the purpose of this chapter. This research program will examine, but not be limited to, hydrologic and hydraulic analysis methods, stream geomorphologic analysis methods, water quality, best management practices and erosion and sediment control measures. (Ord. 13191 § 20, 1998: Ord. 9163 §§ 18-19, 1989).

9.04.196 Agency rules. Any documents and/or manuals formally adopted by rule under the procedures specified in K.C.C. chapter 2.98 which implement the policies promulgated in this chapter are governed by the King County Code. Any inconsistencies identified will be controlled by the King County Code. (Ord. 13191 § 21, 1998).

9.04.197 Effective date. The effective date of Ordinance 13191 is August 31, 1998. (Ord. 13191 § 19, 1998).

9.04.200 Severability. If any provision of this chapter or its application to any person or property is held invalid, the remainder of the chapter or the application of the provision to other persons or property shall not be affected. (Ord. 9163 § 20, 1989: Ord. 7817 § 2, 1986: Ord. 2812 § 11, 1976: Ord. 2281 § 12, 1975).

9.08 SURFACE WATER MANAGEMENT PROGRAM

Sections:

- 9.08.010 Definitions.
- 9.08.020 Authority.
- 9.08.030 Surface water management citizens committee.

- 9.08.040 Purpose.
- 9.08.050 Applicability.
- 9.08.060 Findings - policy.
- 9.08.070 Rate structure.
- 9.08.080 Rate adjustments and appeals.
- 9.08.085 Petition for additional services.
- 9.08.090 Billing procedure.
- 9.08.100 Delinquencies and foreclosures.
- 9.08.120 Administrative standards and procedures.
- 9.08.125 Report of revenue and expenditure analysis.

9.08.010 Definitions. The following definitions shall apply in the interpretation and enforcement of this chapter:

A. "Basin plan" means a plan and all implementing regulations and procedures including but not limited to capital projects, public education activities, land use management regulations adopted by ordinance for managing surface and storm water management facilities and features within individual subbasins.

B. "Department" means the department of natural resources and parks or its successor agency.

C. "Developed parcel" means any parcel altered from the natural state by the construction, creation or addition of impervious surfaces.

D. "Director" means the director of the department of natural resources and parks or its successor agency or the director's designee.

E. "Division" means the department of natural resources and parks, water and land resources division or its successor agency.

F. "Effective impervious area" means the portion of actual impervious area that is connected, or has the effect of being connected as defined in the King County Surface Water Design Manual, directly to the storm water drainage system via surface flow or discrete conveyances such as pipes, gutters or ditches.

G. "Flow control facility" means a drainage facility designed to mitigate the impacts of increased surface and storm water runoff generated by site development in accordance with the drainage requirements in this chapter. A flow control facility is designed either to hold water for a considerable length of time and then release it by any combination of evaporation, plant transpiration or infiltration into the ground or to hold runoff for a short period of time and then release it to the conveyance system.

H. "Flow control best management practice" means a method or design for dispersing, infiltrating or otherwise reducing or preventing development-related increases in surface and storm water runoff at, or near, the sources of those increases. "Flow control best management practice" includes the methods and designs specified in the Surface Water Design Manual.

I. "Lake management plan" means the plan, and supporting documents as appropriate, describing the lake management recommendations and requirements that has been formally adopted by rule under the procedures specified in K.C.C. chapter 2.98. Adopted lake management plans are available from the division and the department of permitting and environmental review. A synopsis of adopted lake management plans shall be distributed to all Surface Water Design Manual subscribers as part of the manual's routine update process.

J. "Drainage facility" means the system of collecting, conveying, and storing surface and storm water runoff. Drainage facilities shall include but not be limited to all surface and storm water conveyance and containment facilities including streams, pipelines, channels, ditches, swamps, lakes, wetlands, closed depressions, infiltration

facilities, flow control facilities, erosion/sedimentation control facilities and other drainage structures and appurtenances, both natural and constructed.

K. "Impervious surface" means either a hard surface area that either prevents or retards the entry of water into the soil mantle as it entered under natural conditions before development, or a hard surface area that causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions before development, or both. Common impervious surfaces include, but are not limited to, roofs, walkways, patios, driveways, parking lots, storage areas, areas that are paved, graveled or made of packed or oiled earthen materials or other surfaces which similarly impede the natural infiltration of surface and storm water. Open, uncovered flow control facilities shall not be considered as impervious surfaces.

L. "Land use code" means restrictions on the type of development for a specific parcel of land as identified by records maintained by the King County department of assessments as modified or supplemented by information resulting from investigation by the division. Land use codes are preliminary indicators of the extent of impervious surface and are used in the initial analysis to assign an appropriate rate category for a specific parcel.

M. "Maintenance" means the act or process of cleaning, repairing or preserving a system, unit, facility, structure or piece of equipment.

N. "Natural surface water drainage system" means such landscape features as rivers, streams, lakes and wetlands. This system circulates water in a complex hydrological cycle.

O. "National Pollutant Discharge Elimination System permit" means a permit issued by the Washington state Department of Ecology for discharges to waters of the United States under the Clean Water Act.

P. "Open space" means any parcel, property or portion thereof classified for current use taxation under K.C.C. chapter 20.36 and chapter 84.34 RCW, or for which the development rights have been sold to King County under K.C.C. chapter 26.04. This definition includes lands that have been classified as open space, agricultural or timber lands under criteria contained in K.C.C. chapter 20.36 and chapter 84.34 RCW.

Q. "Parcel" means the smallest separately segregated unit or plot of land having an identified owner, boundaries and surface area that is documented for property tax purposes and given a tax lot number by the King County assessor.

R. "Person" means any individual, firm, company, association, corporation or governmental agency.

S. "Program" means the surface water management program as created and established in this chapter.

T. "Rate category" means the classification in this chapter given to a parcel in the service area based upon the type of land use on the parcel and the percentage of impervious surface area contained on the parcel.

U. "Residence" means a building or structure or portion thereof, designed for and used to provide a place of abode for human beings. "Residence" includes "residential" or "residential unit" as referring to the type of or intended use of a building or structure.

V. "Residential parcel" means any parcel that contains no more than three residences or three residential units within a single structure and is used primarily for residential purposes.

W. "Service area" means unincorporated King County.

X. "Storm water plan" means a King County ordinance specifying the storm water control facilities that will be funded by a bond issue.

Y. "Subbasin" means a drainage area that drains to a water course or water body named and noted on common maps and that is contained within a basin as defined in K.C.C. 9.04.020.

Z. "Surface and storm water management services" means the services provided by the surface water management program, including but not limited to basin planning, facilities maintenance, regulation, financial administration, public involvement, drainage investigation and enforcement, aquatic resource restoration, surface and storm water quality and environmental monitoring, natural surface water drainage system planning, intergovernmental relations and facility design and construction.

AA. "Surface water management fee protocols" means the surface water management fee standards and procedures that have been formally adopted by rule under the procedures specified in K.C.C. chapter 2.98. The surface water management fee protocols are available from the department of natural resources and parks, water and land resources division, or its successor agency.

BB. "Surface and storm water" means water originating from rainfall and other precipitation that is found in drainage facilities, rivers, streams, springs, seeps, ponds, lakes and wetlands as well as shallow ground water.

CC. "Surface and storm water management system" means constructed drainage facilities and any natural surface water drainage features that do any combination of collection, storing, controlling, treating or conveying surface and storm water.

DD. "Surface Water Design Manual" means the manual, and supporting documentation referenced or incorporated in the manual, describing surface and storm water design and analysis requirements, procedures and guidance that has been formally and most recently adopted by rule under the procedures in K.C.C. chapter 2.98. The Surface Water Design Manual is available from the department of permitting and environmental review or the department of natural resources and parks, water and land resources division, or its successor agency.

EE. "Undeveloped parcel" means any parcel that has not been altered from its natural state by the construction, creation or addition of impervious surface.

FF. "Water quality treatment facility" means a drainage facility designed to reduce pollutants once they are already contained in surface and storm water runoff. "Water quality treatment facility" means the structural component of best management practices. When used singly or in combination, a water quality treatment facility reduces the potential for contamination of either surface or ground waters, or both. (Ord. 17451 § 1, 2012: Ord. 17420 § 26, 2012: Ord. 14261 § 1, 2001: Ord. 14199 § 132, 2001: Ord. 13695 § 1, 1999: Ord. 11522 § 1, 1994: Ord. 11015 § 1, 1993: Ord. 10187 § 1, 1991: Ord. 7817 § 2, 1986: Ord. 7590 § 1, 1986).

9.08.020 Authority.

A. There is hereby created and established the surface water management program of King County under which the provisions of this chapter shall be carried out.

B. The program created in this section shall be administered by the division.

C. Whenever necessary to examine the property characteristics of a particular parcel for the purposes of implementing this chapter, the director may enter any property or portion thereof at reasonable times in compliance with the following procedures:

1. If the property or portion thereof is occupied, the director shall present identification credentials, state the reason for entry and request entry;

2. If the property or portion thereof is unoccupied, the director shall first make a reasonable effort to locate the owner or other persons having charge or control of the property or portion thereof and request entry; and

3. Unless entry is consented to by the owner or person in control of any property or portion thereof, the director, before entry, shall obtain a search warrant as authorized by the laws of the state of Washington.

D. The director is authorized to enforce this chapter, the ordinances and resolutions codified in it and any rules and regulations promulgated thereunder pursuant to the enforcement and penalty provisions of K.C.C. Title 23.

E. The program may provide services related to surface and storm water management, including but not limited to basin planning, facilities maintenance, regulation, financial administration, public involvement, drainage investigation and enforcement, aquatic resource restoration, surface and storm water quality and environmental monitoring, natural surface water drainage system planning, intergovernmental relations, and facility design and construction. The program may contract for services with interested municipalities or special districts including but not limited to sewer and water districts, school districts, port districts or other governmental agencies.

F.1. Whenever a city or town annexes an area, or a city or town incorporates an area and the county has issued revenue bonds or general obligation bonds to finance storm water control facilities that are payable in whole or in part from rates or charges imposed in the area, the county shall continue imposing all portions of the rates or charges that are allocated to payment of the debt service on bonds in that area after the effective date of the annexation or official date of the incorporation until:

- a. the debt is retired;
- b. any debt that is issued to refinance the underlying debt is retired; or
- c. the city or town reimburses the county an amount that is sufficient to retire that portion of the debt borne by the annexed or incorporated area.

2. If the county provides storm water management services to the city or town by contract, the contract shall consider the value of payments made by property owners to the county for the payment of debt service. This section applies whether or not the bonds finance facilities that are geographically located within the area that is annexed or incorporated.

The county shall construct all facilities included in the storm water plan financed by the proceeds of the bonds. The storm water plan may be modified and facilities authorized in the storm water plan may be added, deleted or modified either before or after annexation or incorporation of part of the service area when the county council determines, after notification of cities within the affected basins, that the changes are necessary or advisable in order to implement the storm water plan within available funding levels. If bond proceeds are insufficient to complete all facilities authorized in the storm water plan, the county council shall, after notification of cities within the affected basins, prioritize the use of bond proceeds to construct those facilities most necessary and in the best interest of the area served by the storm water plan. If the storm water plan is amended for the reasons in this section, any related agreements with other jurisdictions shall be revised as necessary. (Ord. 13695 § 2, 1999: Ord. 11015 § 2, 1993: Ord. 10187 § 2, 1991: Ord. 7817 § 2, 1986: Ord. 7590 § 2, 1986).

9.08.030 Surface Water Management Citizens Committee.

A. The surface water management citizens committee is hereby established. The committee shall act in an advisory capacity to the director on matters concerning surface and storm water management and may submit independent recommendations to the county executive and county council. The committee shall review, advise and make recommendations regarding matters such as general program focus, program service levels and financing, and policies on surface and storm water issues.

B. The committee shall be comprised of twenty-five members appointed by the executive and confirmed by the council who reside, own property or have a community interest in the service area. At least four members shall live in cities which have mutual drainage interests with the county. The committee members shall include a cross section

of the public affected by the program including private citizens, commercial, community and environmental organizations.

C. The appointments shall be effective until December 31 of the third year following each member's appointment date. Members whose terms have expired shall serve until replacements are appointed. Members may be reappointed for one additional term.

D. The committee shall select its officers, including chair, vice-chair and any others it deems necessary.

E. The committee shall adopt appropriate by-laws. (Ord. 10187 § 3, 1991: Ord. 9453, 1990: Ord. 7817 § 2, 1986: Ord. 7590 § 4, 1986).

9.08.040 Purpose. It is the finding of the county that the Surface Water Management Program is necessary in order to promote public health, safety and welfare by establishing and operating a comprehensive approach to surface and storm water problems which would reduce flooding, erosion and sedimentation, prevent and mitigate habitat loss, enhance groundwater recharge and prevent water quality degradation. This comprehensive approach includes the following elements: basin planning, land use regulation, construction of facilities, maintenance, public education, and provision of surface and storm water management services. It is the finding of the county that the most cost effective and beneficial approach to surface and storm water management is through preventative actions and protection of the natural drainage system. In approaching surface and storm water problems the Surface Water Management Program shall give priority to methods which provide protection or enhancement of the natural surface water drainage system over means which primarily involve construction of new drainage facilities or systems. The purpose of the rates and charges established herein is to provide a method for payment of all or any part of the cost and expense of surface and storm water management services or to pay or secure the payment of all or any portion of any issue of general obligation or revenue bonds issued for such services. These rates and charges are necessary in order to promote the public health, safety and welfare by minimizing uncontrolled surface and storm water, erosion, and water pollution; to preserve and utilize the many values of the county's natural drainage system including water quality, open space, fish and wildlife habitat, recreation, education, urban separation and drainage facilities; and to provide for the comprehensive management and administration of surface and storm water. (Ord. 11615 § 6, 1994: Ord. 10187 § 4, 1991: Ord. 7817 § 2, 1986: Ord. 7590 § 5, 1986).

9.08.050 Applicability.

A. Developed parcels within the service area shall be billed each year for surface and storm water management services pursuant to RCW 36.89.080. Surface and storm water management services or service charges, or both shall be imposed on developed parcels lying within cities and towns when the services or charges, or both, have been provided for by interlocal agreements between the county and the cities or towns. That portion of the rates or charges allocated to payment of debt service on revenue or general obligation bonds issued to finance storm water control facilities in areas annexed or incorporated subsequent to the issuance of the bonds shall be imposed as set forth in K.C.C. 9.08.020. In addition, the county and cities or towns may enter into interlocal agreements allowing the city or town to provide surface and storm water management services or charges, or both, for specified developed parcels lying within unincorporated King County.

B. The service area may be modified in accordance with policy contained in K.C.C. 9.08.060. Modifications to the service area shall be by ordinance. (Ord. 13695 §

3, 1999: Ord. 11015 § 3, 1993: Ord. 10187 § 5, 1991: Ord. 8626 § 2, 1988: Ord. 7817 § 2, 1986: Ord. 7590 § 6, 1986).

9.08.060 Findings - policy.

A. It is the finding of the county that the majority of the basins in the service area are shared with incorporated cities and towns. In order to achieve a comprehensive approach to surface and storm water management the county and incorporated jurisdictions within a specific basin shall coordinate surface and storm water, management services. In addition, the program may contract for services with interested municipalities or special districts including but not limited to sewer and water districts, school districts, port districts or other governmental agencies.

B. It is the finding of the county that many of the difficulties found in the management of surface and storm water problems are contributed to by the general lack of public knowledge about the relationship between human actions and surface and storm water management. In order to achieve a comprehensive approach to surface and storm water management the county should provide general information to the public about land use and human activities that impact surface and storm water management. Pursuant to RCW 36.89.085, it is the finding of the county that public school districts can provide significant benefits to the county regarding surface and storm water management through educational programs and community activities related to protection and enhancement of the surface and storm water management system. These programs and activities can provide students with an understanding of human activities and land use practices that create surface and storm water problems and involve students by learning from first hand exposure, the difficulties of resolving surface and storm water management problems after they occur.

C. It is the finding of the county that technical assistance and community education have been shown to be a cost-effective means of improving the management of the impacts of surface and storm water runoff. Technical assistance and community education regarding stewardship enables King County, its residents and businesses to comply with federal, state and local mandates and enables the county to protect its quality of life and its natural resources. The promotion of stewardship is an integral part of a comprehensive surface and storm water management program.

D. It is the finding of the county that developed parcels contribute to an increase in surface and storm water runoff to the surface and storm water management system. This increase in surface and storm water runoff results in the need to establish rates and charges to finance the county's activities in surface and storm water management. Developed parcels shall be subject to the rates and charges of the surface water management program based on their contribution to increased runoff. The factors to be used to determine the degree of increased surface and storm water runoff to the surface and storm water management system from a particular parcel shall be the percentage of impervious surface coverage on the parcel, the total acreage of the parcel and any mitigating factors as determined by King County.

E. It is the finding of the county that undeveloped parcels do not contribute as much as developed parcels to an increase in surface and storm water runoff into the surface and storm water management system. Undeveloped properties shall be exempt from the rates and charges of the surface water management program.

F. It is the finding of the county that maintained drainage facilities mitigate the increased runoff contribution of developed parcels by providing on-site drainage control. Parcels served by flow control facilities that were required for development of the parcel pursuant to K.C.C. chapter 9.04 and approved by King County or can be demonstrated as required in K.C.C. 9.08.080 by the property owner to provide flow control of surface and storm water to the standards in K.C.C. chapter 9.04 shall receive

a discount as provided in the rates and charges of the surface water management program, if the facility is maintained at the parcel owner's expense to the standard established by the department.

G. It is the finding of the county that improvements to the quality of storm water runoff can decrease the impact of that runoff on the environment. Parcels served by water quality treatment facilities that were required for development of the parcel pursuant to K.C.C. chapter 9.04 and approved by King County or that can be demonstrated as required in K.C.C. 9.08.080 by the property owner to provide treatment of surface and storm water to the standards in K.C.C. chapter 9.04 shall receive a discount as provided in the rates and charges of the surface water management program, if the facility is maintained at the parcel owner's expense to the standard established by the department.

H. It is the finding of the county that parcels with at least sixty-five percent of their land in forest, no more than twenty percent in impervious surface, and dispersed runoff from the impervious surface through the forested land resulting in an effective impervious area of ten percent or less for the entire parcel, do not contribute as much to an increase in surface and storm water runoff as properties with less forest that do not disperse. These properties shall be eligible to receive a discount as provided in the rates and charges of the surface water management program if the runoff from the impervious surface is dispersed in accordance with the standards established by the department.

I. It is the finding of the county that parcels that make use of their pervious surface area to absorb storm water runoff from the impervious surfaces do not contribute as much to an increase in surface and storm water runoff as properties that do not use their pervious area to absorb runoff. These properties shall be eligible to receive a discount as provided in the rates and charges of the surface water management program if the runoff from the impervious surface is dispersed in accordance with the standards established by the department.

J. It is a finding of the county that open space properties provide a benefit to the surface and storm water management system by the retention of property in an undeveloped state. Open space properties shall receive a discount from the rates and charges to encourage the retention of property as open space.

K. It is a finding of the county that current scientific studies demonstrate that conservation and maintenance of forestland and open space contribute to the proper management of surface water quality and quantity. The scientific analysis performed in connection with the Cedar river, Issaquah creek and Bear creek basin plans have demonstrated that forests intercept and evaporate more rainfall, provide more soil storage, retain and trap more sediments and purify contaminated water better than any other land use. Conservation and maintenance of public forests, the provision of technical assistance and encouragement to private landowners to retain forests are effective ways to prevent disruption of natural hydrology. Open Space lands, to the extent that they retain their natural condition and do not contain impervious surface, also perform an important surface water function by not detracting from the functioning of natural hydrology systems. Conservation and maintenance of publicly owned open space and forestland is often more cost-effective than building and maintain artificial or engineered surface and storm water management facilities. Additional financial resources are required to conserve and maintain those natural resource lands that serve important surface and storm water management functions.

L. It is a finding of the county that the majority of the parcels in the service area are residential. The variance between residential parcels in impervious surface coverage is found to be minor and to reflect only minor differences in increased runoff contributions. The administrative cost of calculating the service charge individually for each residential

parcel and maintaining accurate information would be very high. A flat charge for residential parcels is less costly to administer than calculating a separate charge for each parcel and is equitable because of the similarities in impervious surface coverage between residential parcels. Therefore, residential parcels shall be charged a flat charge based upon an average amount of impervious surface.

M. It is a finding of the county that very lightly developed nonresidential parcels that have an impervious surface coverage of ten percent or less of the total parcel acreage are characterized by a very low intensity of development and generally a large number of acres. A greater number of acres of undeveloped land associated with an impervious surface results in significantly less impact to the surface and storm water management system. Many of the very lightly developed properties are recreational, agricultural and timber lands identified in the King County Comprehensive Plan and should be encouraged to retain their low intensity of development. These parcels shall be charged a flat rate to encourage the retention of large areas of very lightly developed land.

N. It is the finding of the county that lightly to very heavily developed nonresidential parcels that have an impervious surface coverage of more than ten percent have a substantial impact on the surface and storm water management system. The impact of these parcels on the surface and storm water management system increases with the size of the parcels. Therefore, lightly to very heavily developed properties shall be charged a rate determined by the percent of impervious surface coverage multiplied by the parcel acreage.

O. It is a finding of the county that county and state roads contribute a significant amount of increased runoff to the surface and storm water management system, which contributes to the need for basin planning, drainage facilities and other related services. However, both the county roads and state highway programs provide substantial annual programs for the construction and maintenance of drainage facilities, and the roads systems and their associated drainage facilities serve as an integral part of the surface and storm water management system. The rate charged county roads and state highways shall reflect the benefit that county roads and state highway facilities provide to the surface and storm water management system. County and state road drainage systems unlike the drainage systems on other properties are continually being upgraded to increase both conveyance capacity and control. It is envisioned that the roads program will work cooperatively with the surface water management program to improve regional surface and storm water management services as new information is available from basin plans and other sources. The percentage of impervious surface coverage for county roads and state highways shall be calculated by dividing average width of roadway and shoulder by the average width of the right of way. The service charge shall be calculated in accordance with RCW 90.03.525.

P. It is the finding of the county that comprehensive management of surface and storm water runoff must include anticipation of future growth and development in the design and improvement of the surface and storm water management system. Service charge revenue needs shall be based upon the present and future requirements of the surface and storm water management system, and these needs shall be considered when determining the rates and charges of the program.

Q. It is the finding of the county that basin plans are essential to establishing a comprehensive approach to a capital improvement program, maintenance of facilities and regulation of new developments. A plan should analyze the measures needed to control surface and storm water runoff that results from existing and anticipated development within the basin. The measures investigated to control runoff should include land use regulation such as setback requirements or community plan revisions that revise land use densities as well as the use of drainage facilities. A plan also should recommend the

quantity and water quality runoff control measures required to further the purposes set forth in K.C.C. 9.08.040, and community goals. The institutional requirements and regulations, including but not limited to land use management, funding needs, and incentives for preserving the natural surface water drainage system should be identified in the plan. The proposed ordinances and regulations necessary to implement the plan shall be transmitted to the council simultaneously with the plan.

R. It is a finding of the county that the federal government has increased requirements concerning surface water quantity and control. The federal Clean Water Act, implemented through municipal storm water NPDES permits, mandates a wide variety of local programs to manage surface water and improve water quality. Compliance will increasingly be measured by the effectiveness of King County's surface water and water quality programs. The NPDES permit impacts operations in the roads, solid waste, transit and parks divisions, the airport and the department of permitting and environmental review, and most activities in the water and land resources division.

S. It is a finding of the county that Chinook salmon were listed as a threatened species in March 1999, and bull trout were listed as a threatened species in November 1999, under the federal Endangered Species Act. These listings focus the need for higher standards in managing surface water including new, expanded and more intensive programs to control the quantity of runoff as well as its quality. Programs responding to these imperatives have included the design, permitting and construction of facilities, facility retrofitting and maintenance, habitat acquisition and restoration, monitoring, regulation development and coordination with other agencies on transboundary issues.

T. It is the finding of the county that areas with development related surface and storm water problems require comprehensive management of surface and storm water.

U. It is the finding of the county that additional surface and storm water runoff problems may be caused by new land use development if not properly mitigated both through protection of natural systems and through constructed improvements. The Surface Water Design Manual and K.C.C Titles 9, 16, 20 and 21A have been adopted by King County to mitigate the impact of land use development. Further mitigation of these impacts is based on expertise that continues to evolve as new information on our natural systems is obtained and new techniques are discovered. The surface water management program, through reconnaissance studies, basin plans, and other special studies, will continuously provide valuable information on the existing problems and areas of the natural drainage system that need special protection. The county is researching and developing methods to protect the natural drainage system through zoning, buffering and setbacks to alleviate existing problems. Setback and buffering measures allow natural preservation of wetlands and stream corridors to occur, alleviate erosion and water pollution and provide a safe environment for the small mammals and fish that inhabit sensitive areas. Based upon the findings in this subsection, and as information and methods become available, the executive, as appropriate shall draft and submit to the council, regulations and development standards to allow protection of the surface and storm water management system including natural drainage systems.

V. It is the finding of the county that the unique stormwater needs of the unincorporated rural area of the county require that the county's surface water management program established under chapter 36.89 RCW develop a rural drainage program. The intent of this rural drainage program is to provide a means through which existing and emerging surface water problems in the rural areas can be addressed in a manner that preserves both rural resources and rural activities including agriculture and forestry. Rural drainage services provided by the division shall support a rural level of development and not facilitate urbanization. This rural drainage program shall result in a program consistent with Countywide Planning Policies and King County Comprehensive Plan policies.

W. The program will maintain long term fiscal viability and fund solvency for all of its related funds. All required capital and operating expenditures will be covered by service charges and other revenues generated or garnered by the program. The program will pay all current operating expenses from current revenues and will maintain an operating reserve to minimize service impacts due to revenue or expenditure variances from plan during a fiscal year. This reserve will be calculated based on the historic variability of revenue and expenditures. The program will adopt a strategic financial planning approach that recognizes the dynamic nature of the program's fiscal operating environment. Long-term projections will be updated in the program's adopted strategic plan. One-time revenues will be dedicated to one-time-only expenditures and will not be used to support ongoing requirements. The program's approach to financial reporting and disclosure will be comprehensive, open and accessible.

X. The program shall prepare an annual, multiyear capital improvement program that encompasses all of the program's activities related to the acquisition, construction, replacement, or renovation of capital facilities or equipment. All proposed new facilities will be subject to a consistent and rigorous needs analysis. The program's capital facilities will be planned and financed to ensure that the benefits of the facilities and the costs for them are balanced over time.

Y. The program will manage its debt to ensure continued high credit quality, access to credit markets, and financial flexibility. All of the program's debt management activities will be conducted to maintain at least the current credit ratings assigned to the county's debt by the major credit rating agencies and to maintain an adequate debt service coverage ratio. Long term debt will not be used to support operating expenses. The program will develop and maintain a central system for all debt-related records that will include all official statements, bid documents, ordinances indentures, leases, etc., for all of the program's debt and will accurately account for all interested earnings in debt-related funds. These records will be designed to ensure that the program is in compliance with all debt covenants and with state and federal laws. (Ord. 17539 § 3, 2013: Ord. 17420 § 27, 2012: Ord. 14261 § 2, 2001: Ord. 13695 § 4, 1999: Ord. 11015 § 4, 1993: Ord. 10187 § 6, 1991: Ord. 7817 § 2, 1986: Ord. 7590 § 7, 1986).

9.08.070 Rate structure.

A. The service charges shall be based on the relative contribution of increased surface and storm water runoff from a given parcel to the surface and storm water management system. The percentage of impervious surfaces on the parcel, the total parcel acreage and any mitigating factors as provided in K.C.C. 9.08.080 shall be used to indicate the relative contribution of increased surface and storm water runoff from the parcel to the surface and storm water management system. The relative contribution of increased surface and storm water runoff from each parcel determines that parcel's share of the service charge revenue needs. The service charge revenue needs of the program are based upon all or any part, as determined by the council, of the cost of meeting stormwater obligations of state and federal land and the cost of surface and storm water management services and to pay or secure the payment of all or any portion of any issue of general obligation or revenue bonds issued for that purpose.

B. The division shall determine the service charge for each parcel within the service area by the following methodology:

Residential and very lightly developed nonresidential parcels shall receive a flat rate service charge for the reasons in K.C.C. 9.08.060. Light to very heavily developed parcels shall be classified into the appropriate rate category by their percentage of impervious surface coverage. Land use codes or data collected from parcel investigations, or both shall be used to determine each parcel's percentage of impervious surface coverage. After a parcel has been assigned to the appropriate rate category, the

service charge for the parcel shall be calculated by multiplying the total acreage of the parcel times the rate for that category.

C. There is hereby imposed upon all developed properties in the service area annual service charges as follows:

SURFACE WATER MANAGEMENT SERVICE CHARGES		
Class	Impervious Surface %	Rate
Residential	NA	\$171.50/parcel/year
Very Light	0 to less than or equal to 10%	\$171.50/parcel/year
Light	greater than 10% to less than or equal to 20%	\$413.38/acre/year
Moderate	greater than 20% to less than or equal to 45%	\$905.91/acre/year
Moderately Heavy	greater than 45% to less than or equal to 65%	\$1,546.40/acre/year
Heavy	greater than 65% to less than or equal to 85%	\$2,116.79/acre/year
Very Heavy	greater than 85% to less than or equal to 100%	\$2,638.96/acre/year
County Roads	NA	Set in accordance with RCW 90.03.525
State Highways	NA	Set in accordance with RCW 90.03.525

The minimum service charge in any class shall be one hundred seventy-one dollars and fifty cents per parcel per year. Mobile home parks' maximum annual service charges in any class shall be one hundred seventy-one dollars and fifty cents times the number of mobile home spaces.

D. The county council shall review the surface water management service charges biennially to ensure the long term fiscal viability of the program and to guarantee that debt covenants are met. The program shall use equitable and efficient methods to determine service charges.

E. When a parcel with impervious surface is divided by the boundary of the service area and a portion of the parcel's impervious surface drains into the service area, the parcel shall be charged as otherwise provided herein on the basis of the lands and impervious surfaces that drain into the service area. When the director has determined that the impervious surface of a parcel, divided by the boundary of the service area, completely drains outside of the service area, the parcel is exempt from the rates and charges of this chapter.

F. The King County council by ordinance may supplement or alter charges within specific basins and subbasins of the service area so as to charge properties or parcels of one basin or subbasin for improvements, studies or maintenance that the council deems to provide service or benefit the property owners of one or more basins or subbasins. (Ord. 17451 § 4, 2012: Ord. 16958 § 2, 2010: Ord. 15638 § 2, 2006: Ord. 14261 § 4,

2001: Ord. 13695 § 5, 1999: Ord. 11015 § 5, 1993: Ord. 10187 § 7, 1991: Ord. 8626 § 3, 1988: Ord. 8373 § 2, 1988: Ord. 7817 § 2, 1986: Ord. 7590 § 8, 1986).

9.08.080 Rate adjustments and appeals.

A. Any person billed for service charges may file a request for rate adjustment with the division within three years of the date from which the bill was sent. However, filing of such a request does not extend the period for payment of the charge.

B. Requests for rate adjustment may be granted or approved by the director only when one of the following conditions exists:

1. The parcel is owned and is the personal residence of a person or persons determined by the county assessor as qualified for a low income senior citizen property tax exemption authorized under RCW 84.36.381. Parcels qualifying under this subsection B.1. shall be exempt from all charges imposed in K.C.C. 9.08.070;

2. The acreage of the parcel charged is in error;

3. The parcel is nonresidential and the actual impervious surface coverage of the parcel charged places it in a different rate category than the rate category assigned by the division;

4. The parcel is nonresidential and the parcel meets the definition of open space in K.C.C. 9.08.010. Parcels qualifying under this subsection B.4. shall be charged only for the area of impervious surface and at the rate that the parcel is classified under using the total parcel acreage;

- 5.a. The parcel is nonresidential and is served by one or more of the following types of controls used to mitigate the impacts of surface and storm water runoff from the impervious surfaces of the parcel, and any source control best management practices applicable to the facilities or activities occurring on the parcel must be implemented in accordance with the standards in K.C.C. chapter 9.12 to prevent contaminants from entering surface water, storm water or ground water:

- (1) one or more flow control facilities that are required under K.C.C. chapter 9.04, or that is demonstrated by the property owner to provide flow control of surface and storm water to the standards in K.C.C. chapter 9.04, when any such a facility is maintained at the expense of the parcel owner to the standards required by the department. Parcels qualifying under this subsection B.5.a.(1) shall receive a twenty percent discount when runoff is controlled on fifty percent or more of the property's impervious surface by the single or multiple flow control facilities;

- (2) one or more flow control facilities that are required under K.C.C. chapter 9.04 and designed to the standards in the 1990 or later editions of the Surface Water Design Manual, or that is demonstrated by the property owner to provide flow control of surface and storm water to the standards in the 1990 or later editions of the Surface Water Design Manual, when any such a facility is maintained at the expense of the parcel owner to the standards required by the department. Parcels qualifying under this subsection B.5.a.(2) shall receive a twenty percent discount when runoff is controlled on fifty percent or more of the property's impervious surface by the qualifying single or multiple flow control facilities. This discount is available in addition to other qualifying discounts in this subsection B.5.a.;

- (3) one or more flow control best management practices or infiltration facilities that are either required under K.C.C. chapter 9.04, or is demonstrated by the property owner to provide absorption or dispersion of surface and storm water to the standards in K.C.C. chapter 9.04, when any such a practice or facility is maintained at the expense of the parcel owner to the standards required by the department. Parcels qualifying under this subsection B.5.a.(3) shall receive a twenty percent discount when runoff is absorbed or dispersed on fifty percent or more of the property's impervious surface by flow control

best management practices or infiltration facilities. This discount is available in addition to other qualifying discounts in this subsection B.5.a.;

(4) one or more water quality treatment facilities that are required under K.C.C. chapter 9.04, or that is demonstrated by the property owner to provide water quality treatment of surface and storm water to the standards in K.C.C. chapter 9.04, when any such a facility is maintained at the expense of the parcel owner to the standards required by the department. Parcels qualifying under this subsection B.5.a.(4). shall receive a twenty percent discount when runoff is treated on fifty percent or more of the property's impervious surface by the single or multiple water quality treatment facilities. This discount is available in addition to other qualifying discounts in this subsection B.5.a.;

(5) increased surface and storm water management activities conducted by the parcel owner as mandated by the state through a National Pollutant Discharge Elimination System permit for post construction stormwater discharges. The activities include, but are not limited to, frequent facility inspections, surface water monitoring, reporting of facility performance and prompt correction of identified surface water problems. Satisfactory compliance with the permit is required for this discount, as determined by the department. Parcels qualifying under this subsection B.5.a.(5) shall receive a ten percent discount in addition to other qualifying discounts in this subsection B.5.a.; and

(6) when the requirements of subsection B.5.a.(1) through (4) of this section stating the specified facilities must address the impacts of at least fifty percent of the impervious surfaces on-site cannot be met, the discounts provided in said subsections shall be prorated as follows:

(a) forty to less than fifty percent of impervious surface: sixteen percent discount;

(b) thirty to less than forty percent of impervious surface: twelve percent discount;

(c) twenty to less than thirty percent of impervious surface: eight percent discount; and

(d) four to less than twenty percent of impervious surface: four percent discount.

b. Applications for a two-rate discount on surface water management fees, as authorized in subsection B.5. of this section, as amended by Ordinance 16958 and Ordinance 17246, shall not be accepted after December 31, 2012;

6. The parcel is residential and is served by one or more flow control or water quality treatment facilities required under K.C.C. chapter 9.04, or is demonstrated by the property owner to provide flow control or water quality treatment of surface and storm water to the standards in K.C.C. chapter 9.04, and any such a facility is maintained at the expense of the parcel owner to the standards required by the department. In addition any source control best management practices applicable to the facilities or activities occurring on the parcel must be implemented in accordance with the standards in K.C.C. chapter 9.12 to prevent contaminants from entering surface water, storm water, or ground water. Residential parcels qualifying under this subsection B.6. shall receive a fifty percent discount;

7. The parcel contains at least sixty-five percent forest and no more than twenty percent impervious surface, the runoff from which is dispersed through the forested area to the standards in the surface water management fee protocols, resulting in an effective impervious area of no more than ten percent for the entire parcel. In addition to the previous requirement, any source control best management practices applicable to the facilities or activities occurring on the parcel must be implemented in accordance with the standards in K.C.C. chapter 9.12 to prevent contaminants from entering surface water, storm water, or ground water. Nonresidential parcels qualifying under this subsection B.7.

shall receive an eighty percent discount. Residential parcels qualifying under this subsection B.7. shall receive a fifty percent discount. The discounts in this subsection B.7. may be applied in lieu of but not in addition to other qualifying discounts in subsection B.5. and B.6.:

8. The parcel is owned or leased by a public school district that provides activities that directly benefit the surface water management program. The activities may include, but are not limited to: curriculum specific to the issues and problems of surface and storm water management, and student activities in the community to expose students to the efforts required to restore, monitor or enhance the surface and storm water management system. According to RCW 36.89.085, the amount of the rate adjustment shall be determined by the director based upon the cost of the activities to the school district but not to exceed the value of the activity to the surface water management program. Determination of which activities qualify for the surface water management service charge reduction shall be made by the division. Reductions in surface water management service charges may only be granted to school districts that provide programs that have been evaluated by the division. The rate adjustment for the school district activity may be applied to any parcel in the service area that is owned or operated by the school district;

9. The parcel is owned by a federally recognized tribe or member of such tribe and is located within the historical boundaries of a reservation and thus is not subject to the charges provided for in this chapter; or

10. The service charge bill was otherwise not calculated in accordance with this chapter.

C. The dollar amount of debt service on revenue or general obligation bonds issued to finance storm water control facilities shall not be reduced by the rate adjustments referred to in subsection B.5., 6. and 7. of this section.

D. The property owner shall have the burden of proving that the rate adjustment sought should be granted.

E. Decisions on requests for rate adjustments shall be made by the director based on information submitted by the applicant and by the division within thirty days of the adjustment request except when additional information is needed. The applicant shall be notified in writing of the director's decision. If an adjustment is granted under subsections B.1., 2., 3. and 4. of this section that reduces the charge for the current year or two prior years, the applicant shall be refunded the amount overpaid in the current and two prior years. The adjustments provided for in subsection B.5., 6. and 7. of this section are prospective only from January 1, 2013. A reduction in charges for the billing years before January 1, 2013, shall not be granted under subsection B.5., 6. and 7. of this section.

F. If the director finds that a service charge bill has been undercharged, then either an amended bill shall be issued that reflects the increase in the service charge or the undercharged amount shall be added to the next year's bill. The amended bill shall be due and payable under K.C.C. 9.08.100. The director may include in the bill the amount undercharged for two previous billing years in addition to the current bill.

G. Decisions of the director on requests for rate adjustments shall be final unless within thirty days of the date the decision was mailed, the applicant submits in writing to the director a notice of appeal setting forth a brief statement of the grounds for appeal and requesting a hearing before the King County hearing examiner. The examiner's decision shall be a final decision as authorized by K.C.C. 20.24.080. (Ord. 17451 § 5, 2012: Ord. 16958 § 6, 2010: Ord. 16958 § 4, 2010: Ord. 15638 § 4, 2006: Ord. 14261 § 5, 2001: Ord. 13695 § 6, 1999: Ord. 11015 § 6, 1993: Ord. 10187 § 8, 1991: Ord. 7817 § 2, 1986: Ord. 7590 § 9, 1986).

9.08.085 Petition for additional services. King County residents inside or outside the existing Surface Water Management service area may petition the King County council for establishment of an independent fee for additional services not currently provided by Surface Water Management to them. Sixty percent (60%) of the residents of the proposed special service area may petition the council for the additional service and charge. The purpose of the petition process and additional charge is to: 1) provide additional services to residents within the existing service area; 2) provide additional services to residents outside the service area; or 3) expand the service area to include the area within the petition.

The executive shall develop a process for creating special service areas and the criteria for acceptance of the special service areas by June 1992. The executive should use the process outlined in Exhibit B as a guide for developing the petition process and the criteria for acceptance of the special service areas. (Ord. 10187 § 13, 1991).

9.08.090 Billing Procedure.

A. All property subject to charges of the program shall be billed based on the property characteristics existing on November 1, of the year prior to the billing year and at the rate as set forth in K.C.C. 9.08.070. Billing year is the year that the bills are sent. The service charge shall be displayed and billed on the annual property tax statement for the parcel and shall be mailed to the name and address shown on the real property tax roll at the time annual property tax bills are prepared. Parcels which are exempt from property taxes and do not receive an annual property tax statement will receive a bill only for the service charge. If a payment less than the sum of the total property tax plus service charge or less than the sum of one-half of the property tax plus one-half of the service charge is received for a combined property tax and service charge, and the parcel owner has not otherwise specified, the director of the office of finance shall first apply the payment to the annual property tax of the parcel pursuant to the provisions of RCW 84.56 and then apply any remaining amount to the service charge.

B. The total amount of the service charge shall be due and payable to the director of the office of finance on or before the 30th day of April and shall be delinquent after that date; however, if one-half of such service charge is paid on or before the said 30th day of April, the remainder shall be due and payable on or before the 31st day of October and shall be delinquent after that date.

C. Parcel characteristics affecting the service charge which are altered after November 1 of any year shall not be a basis for calculation of the service charge until after December 31 of the following year.

EXCEPTION: Adjustments to the annual service charge may be made when property is incorporated or annexed by another jurisdiction. The service charge for the billing year during which incorporation or annexation occurs may:

1. Be subject to a proration formula included in an interlocal agreement between the county and the incorporating or annexing jurisdiction; or

2. If the incorporation or annexation interlocal agreement does not address the surface water management charge, then incorporated or annexed properties will be subject to a surface water management charge of one-quarter of the annual service charge for each quarter of the billing year during which the property was in unincorporated King County for one or more days. For purposes of determining this modified service charge, the billing quarters will be for January 1 through March 31; April 1 through June 30; July 1 through September 30; and October 1 through December 31.

3. The debt service portion of the service charge will not be prorated. (Ord. 11015 § 7, 1993: Ord. 10187 § 9, 1991: Ord. 8626 § 1, 1988: Ord. 7817 § 2, 1986: Ord. 7590 § 12, 1986).

9.08.100 Delinquencies and foreclosures.

A. Delinquent service charges shall bear interest as provided in RCW 36.89.090 and 36.89.092 at the rate of 12 percent per annum, or such rate as may hereafter be authorized by law, computed on a monthly basis from the date of delinquency until paid. Interest shall be calculated at the rate in effect at the time of payment of the charges regardless of when the charges were first delinquent.

B. Pursuant to RCW 36.89.090, the county shall have a lien for delinquent service charges, including interest thereon, against any property subject to service charges. The lien shall be superior to all other liens and encumbrances except general taxes and local and special assessments. Pursuant to RCW 36.89.090, such lien shall be effective and shall be enforced and foreclosed in the same manner as the foreclosure of real property tax liens as provided in RCW 36.94.150. The county may commence to foreclose a surface water management service charge lien after three years from the date surface water management charges become delinquent. Pursuant to RCW 36.94.150 collections shall include costs of foreclosure in addition to service charges and interest. (Ord. 11506 § 1, 1994: Ord. 8373 § 1, 1988: Ord. 7817 § 2, 1986: Ord. 7590 § 13, 1986).

9.08.120 Administrative standards and procedures. Pursuant to K.C.C. chapter 2.98 the director shall develop administrative standards and procedures relating to the implementation of this chapter. This includes but is not limited to:

A. Procedures for the imposition and collection of service charges and/or for filing of liens and initiation of foreclosure on delinquent accounts and the collection of the debt service portion of the service charge in areas that annex or incorporate;

B. Lake management plans for:

1. Beaver Lake;
2. Lake Desire;
3. Cottage Lake (plan dated February 1996).

C. Standards and procedures for granting discounts to the surface water management fee;

D. Procedures for a grant program to help citizens in reducing the impact of excess storm and surface water runoff by removing impervious surface from their property. (Ord. 14261 § 6, 2001: Ord. 12513 § 1, 1996: Ord. 12101 § 1, 1996: Ord. 11522 § 2, 1994: Ord. 11015 § 8, 1993: Ord. 10187 § 11, 1991: Ord. 7817 § 2, 1986: Ord. 7590 § 15, 1986).

9.08.125 Report of revenue and expenditure analysis. The Surface Water Management Program shall report to the council every three years regarding the results of a revenue and expenditure analysis for capital improvement projects for each subarea within the service area to determine the relationship between expenditures and revenues generated in each subarea. The program shall identify areas where additional expenditures are required and how the program expects to address any differences. (Ord. 10187 § 12, 1991).

9.12 WATER QUALITY

Sections:

9.12.005 Purpose.

9.12.015	Definitions.
9.12.025	Discharges into King County waters.
9.12.035	Stormwater Pollution Prevention Manual.
9.12.045	Administration.
9.12.050	Enforcement.
9.12.060	Hazards.
9.12.070	Criminal penalty.
9.12.080	Civil penalties for water quality.
9.12.090	Construction - intent.

Statutory provisions for water pollution control - See chapter 90.48 RCW

9.12.005 Purpose. The purpose of this chapter is to protect the county's surface and ground water quality by providing minimum requirements for reducing and controlling the discharge of contaminants. The county council recognizes that water quality degradation can result either directly from one discharge or through the collective impact of many small discharges. Therefore, this chapter prohibits the discharge of contaminants into surface and storm water and ground water, and outlines preventive measures to restrict contaminants from entering such waters. These measures include the implementation of best management practices (BMPs) by the residents of King County.

The county council finds this chapter is necessary to protect the health, safety and welfare of the residents of King County and the integrity of the county's resources for the benefit of all by: minimizing or eliminating water quality degradation; preserving and enhancing the suitability of waters for recreation, fishing, and other beneficial uses; and preserving and enhancing the aesthetic quality and biotic integrity of the water. The county council recognizes that implementation of this chapter is required under the federal Clean Water Act, 33 U.S.C. 1251 et. seq. In meeting the intent of the Clean Water Act the county council also recognizes the importance of maintaining economic viability while providing necessary environmental protection and believes this chapter helps achieve both goals. (Ord. 11624 § 5, 1994: Ord. 10636 § 2, 1992).

9.12.015 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

A. "AKART" means "all known, available and reasonable methods of prevention, control and treatment." "AKART" represents the most current methodology that can be reasonably required for preventing, controlling or abating the pollutants associated with a discharge. "AKART" applies to both point and nonpoint sources of pollution.

B. "Best management practices" or "BMPs" mean the best available and reasonable physical, structural, managerial or behavioral activities, that, when used singly or in combination, eliminate or reduce the contamination of both surface and ground waters.

C. "Chapter" means this chapter and any administrative rules and regulations adopted to implement this chapter.

D. "Clean Water Act" means 33 U.S.C. 1251 et. seq., as amended.

E. "Director" means the director of the King County department of natural resources and parks, other department directors specified in enforcement procedures established in accordance with this chapter, or any designee of those directors.

F. "Discharge" means throw, drain, release, dump, spill, empty, emit, or pour forth any matter or to cause or allow matter to flow, run or seep from land or be thrown, drained, released, dumped, spilled, emptied, emitted or poured into water.

G. "Drainage facility" has the same meaning as in K.C.C. 9.04.020.

H. "Farm management plan" means a comprehensive site-specific plan developed by the farm owner in cooperation with the King Conservation District taking into consideration the land owners objectives while protecting water quality and related natural resources.

I. "Forest practices" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, as defined in chapter 222-16 WAC.

J. "Ground water" means all waters that exist beneath the land surface or beneath the bed of any stream, lake or reservoir or other body of surface water, whatever may be the geological formation or structure in which such water stands or flows, percolates or otherwise moves.

K. "National Pollutant Discharge Elimination System" or "NPDES" means the national program for controlling pollutants from point source discharges directly into waters of the United States under the Clean Water Act.

L. "National Pollutant Discharge Elimination System permit" means an authorization, license or equivalent control document issued by the Environmental Protection Agency or the Washington state Department of Ecology to implement the requirements of the NPDES program.

M. "Person" means an individual and his or her agent or assign, municipality, political subdivision, government agency, partnership, corporation, business or any other entity.

N. "Source control BMP" means a BMP intended to prevent contaminants from entering surface and storm water or ground water including the modification of processes to eliminate the production or use of contaminants. "Source control BMPs" can be either structural or nonstructural. Structural source control BMPs involve the construction of a physical structure on site, or other type of physical modification to a site. An example of a structural source control BMP is building a covered storage area. A nonstructural source control BMP involves the modification or addition of managerial or behavioral practices. An example of a nonstructural source control BMP is using less toxic alternatives to current products or sweeping parking lots.

O. "State Waste Discharge Permit" means an authorization, license, or equivalent control document issued by the Washington state Department of Ecology in accordance with chapter 173-216 WAC.

P. "Stormwater Pollution Prevention Manual" means the manual adopted in accordance with K.C.C. chapter 2.98, and supporting documentation referenced or incorporated in the manual, describing best management practices and procedures for existing facilities and existing and new activities not covered by the Surface Water Design Manual.

Q. "Surface and storm water" has the same meaning as in K.C.C. 9.04.020.

R. "Treatment BMP" means a BMP intended to remove contaminants once they are already contained in storm water. Examples of treatment BMPs include oil/water separators, biofiltration swales and wetponds. (Ord. 15052 § 6, 2004: Ord. 14199 § 134, 2001: Ord. 11624 § 5, 1994: Ord. 10636 § 3, 1992).

9.12.025 Discharges into King County waters.

A.1. It is unlawful for any person to discharge any contaminants into surface and storm water, ground water or Puget Sound. Contaminants include, but are not limited, to the following:

- a. trash or debris;
- b. construction materials;
- c. petroleum products including but not limited to oil, gasoline, grease, fuel oil, heating oil;

- d. antifreeze and other automotive products;
- e. metals in either particulate or dissolved form;
- f. flammable or explosive materials;
- g. radioactive material;
- h. batteries;
- i. acids, alkalis, or bases;
- j. paints, stains, resins, lacquers or varnishes;
- k. degreasers and solvents;
- l. drain cleaners;
- m. pesticides, herbicides or fertilizers;
- n. steam cleaning wastes;
- o. soaps, detergents or ammonia;
- p. swimming pool backwash;
- q. chlorine, bromine and other disinfectants;
- r. heated water;
- s. domestic animal wastes;
- t. sewage;
- u. recreational vehicle waste;
- v. animal carcasses;
- w. food wastes;
- x. bark and other fibrous materials;
- y. collected lawn clippings, leaves or branches;
- z. silt, sediment or gravel;
- aa. dyes, except as stated in subsection C.1. of this section;
- bb. chemicals not normally found in uncontaminated water;
- cc. any hazardous material or waste not listed above.

2. Illicit connections. Any connection identified by the director that could convey anything not composed entirely of surface and storm water directly to surface and storm water or ground water is considered an illicit connection and is prohibited with the following exceptions:

- a. connections conveying allowable discharges;
- b. connections conveying discharges pursuant to an NPDES permit, other than an NPDES storm water permit, or a State Waste Discharge Permit; and
- c. connections conveying effluent from onsite sewage disposal systems to subsurface soils.

B. BMPs shall be applied to any business or residential activity that might result in prohibited discharges as specified in the Stormwater Pollution Prevention Manual or as determined necessary by the director. Activities that might result in prohibited discharges include but are not limited to following:

- 1. Potable water line flushing;
- 2. Lawn watering with potable water;
- 3. Dust control with potable water;
- 3. Automobile and boat washing;
- 4. Pavement and building washing;
- 5. Swimming pool and hot tub maintenance;
- 6. Auto repair and maintenance;
- 7. Building repair and maintenance;
- 8. Landscape maintenance;
- 9. Hazardous waste handling;
- 10. Solid and food waste handling; and
- 11. Application of pesticides.

C. The following types of discharges shall not be considered prohibited discharges for the purpose of this chapter unless the director determines that the type of discharge, whether singly or in combination with other discharges, is causing significant contamination of surface and storm water or ground water:

1. Spring water;
2. Diverted stream flows;
3. Uncontaminated water from crawl space pumps, foundation drains or footing drains;
4. Lawn watering with potable water or collected rainwater;
5. Pumped groundwater flows that are uncontaminated;
6. Materials placed as part of an approved habitat restoration or bank stabilization project;
7. Natural uncontaminated surface water or ground water;
8. Flows from riparian habitats and wetlands;
9. The following discharges from boats: engine exhaust; cooling waters; effluent from sinks; showers and laundry facilities; and treated sewage from Type I and Type II marine sanitation devices;
10. Collected rainwater that is uncontaminated;
11. Uncontaminated groundwater that seeps into or otherwise enters stormwater conveyance systems;
12. Air conditioning condensation;
13. Irrigation water from agricultural sources that is commingled with stormwater runoff; and
14. Other types of discharges as determined by the director.

D.1. Dye testing is allowable but requires verbal notification to the King County water and land resources division at least one day prior to the date of test. The King County department of public health is exempt from this requirement.

2. A person does not violate subsection A. of this section if:
 - a. That person has properly designed, constructed, implemented and is maintaining BMPs and is carrying out AKART as required by this chapter, but contaminants continue to enter surface and storm water or ground water; or
 - b. That person can demonstrate that there are no additional contaminants being discharged from the site above the background conditions of the water entering the site.

3. A person who, under subsection D.2. of this section, is not in violation of subsection A. of this section is liable for any prohibited discharges through illicit connections, dumping, spills, improper maintenance of BMPs or other discharges that allow contaminants to enter surface and storm water or ground water.

4. Emergency response activities or other actions that must be undertaken immediately or within a time too short to allow full compliance with this chapter in order to avoid an imminent threat to public health or safety, shall be exempt from this section. The director by public rule may specify actions that qualify for this exception in county procedures. A person undertaking emergency response activities shall take steps to ensure that the discharges resulting from such activities are minimized. In addition, this person shall evaluate BMPs and the site plan, where applicable, to restrict recurrence. (Ord. 16264 § 4, 2008: 15052 § 7, 2004: Ord. 14199 § 135, 2001: Ord. 11624 § 5, 1994: Ord. 11624 § 2, 1994: Ord. 10636 § 4, 1992).

9.12.035 Stormwater Pollution Prevention Manual.

A. Compliance with this chapter shall be achieved through the use of the best management practices described in the Stormwater Pollution Prevention Manual. In applying the Stormwater Pollution Prevention Manual, the director shall first require the

implementation of source control BMPs. If these are not sufficient to prevent contaminants from entering surface and storm water or ground water, the director may require implementation of treatment BMPs as set forth in AKART. The King County water and land resources division will provide, upon reasonable request, available technical assistance materials and information, and information on outside financial assistance options to persons required to comply with this chapter.

B. In applying the Stormwater Pollution Prevention Manual to prohibited discharges from normal single family residential activities, the director shall use public education and warnings as primary method of gaining compliance with this chapter and shall not use citations, notice and orders, assessment of civil penalties and fines, or other compliance actions as authorized in K.C.C. 23.02.040, unless the director determines:

1. The discharge from a normal single family residential activity, whether singly or combination with other discharges, is causing a significant contribution of contaminants to surface and storm water or ground water; or

2. The discharge from a normal single family residential activity poses a hazard to the public health, safety or welfare, endangers any property or adversely affects the safety and operation of county right-of-way, utilities or other county-owned or maintained property.

C. Persons implementing BMPs through another federal, state or local program will not be required to implement the BMPs prescribed in the county's Stormwater Pollution Prevention Manual, unless the director determines the alternative BMPs are ineffective at reducing the discharge of contaminants. If the other program requires the development of a stormwater pollution prevention plan or other best management practices plan, the person shall make the plan available to King County upon request. Persons who qualify for exemptions include, but are not limited to, persons:

1. Required to obtain a general or individual NPDES permit from the Washington state Department of Ecology;

2. Implementing and maintaining, as scheduled, a King Conservation District-approved farm management plan;

3. Implementing BMPs in compliance with K.C.C. chapter 21A.30;

4. Implementing BMPs in compliance with the management program of the county's municipal NPDES permit;

5. Engaged in forest practices, with the exception of forest practices occurring on lands platted after January 1, 1960, or on lands being converted to another use or when regulatory authority is otherwise provided to local government by RCW 76.09.240; or

6. Identified by the director as being exempt from this section. (Ord. 16264 § 5, 2008: Ord. 15052 § 8, 2004: Ord. 14199 § 136, 2001: Ord. 11624 § 5, 1994: Ord. 11624 § 3, 1994: Ord. 10636 § 5, 1992).

9.12.045 Administration. The director is authorized to implement the provisions of this chapter. The director is authorized to promulgate and adopt administrative rules and regulations under the procedures specified in K.C.C. chapter 2.98 for the purpose of implementing and enforcing the provisions of this chapter. The director will coordinate the implementation and enforcement of this chapter with other departments of King County government. (Ord. 14199 § 137, 2001: Ord. 11624 § 5, 1994: Ord. 10636 § 6, 1992).

9.12.050 Enforcement.

A. The director is authorized to carry out enforcement actions pursuant to the enforcement and penalty provisions of K.C.C. Title 23 and other enforcement provisions adopted by rule under the procedures of K.C.C. chapter 2.98.

B. The director shall gain compliance with this chapter by requiring the implementation of BMPs and, when necessary, AKART. The director shall initially rely on

education and informational assistance as much as possible to gain compliance with this chapter, unless the director determines a violation is a result of a flagrant act that should be addressed through immediate penalties or poses a hazard as defined in the Hazards section.

C. The director, in consultation with other departments of King County government, shall develop and implement additional enforcement procedures. These procedures shall indicate how the county will investigate and respond to reports or instances of noncompliance with this chapter and shall identify by title the official(s) responsible for implementing the enforcement procedures.

D. The director is authorized to make such inspections and take such actions as may be required to enforce the provisions of this chapter. Such inspections shall be made in accordance with K.C.C. 23.08.040.

1. The director may observe best management practices or examine or sample surface and storm water or ground water as often as may be necessary to determine compliance with this chapter. Whenever an inspection of a property is made, the findings shall be recorded and a copy of the inspection findings shall be furnished to the owner or the person in charge of the property after the conclusion of the investigation and completion of the inspection findings.

2. When the director has made a determination under subsection 1. of this section that any person is violating this chapter, the director may require the violator to sample and analyze any discharge, surface and storm water, ground water, and/or sediment, in accordance with sampling and analytical procedures or requirements determined by the director. If the violator is required to complete this sampling and analysis, a copy of the analysis shall be provided to the King County water and land resources division.

E. In addition to any other penalty or method of enforcement, the prosecuting attorney may bring actions for injunctive or other relief to enforce this chapter. (Ord. 14199 § 138, 2001: Ord. 11624 § 5, 1994: Ord. 11624 § 4, 1994: Ord. 10636 § 7, 1992).

9.12.060 Hazards. Whenever the director determines that any violation of this chapter poses a hazard to public health, safety, or welfare; endangers any property; or adversely affects the safety and operation of county right-of-way, utilities, and/or other property owned or maintained by the county; the person holding title to the subject property, and/or other person or agent in control of said property, upon receipt of notice in writing from the director shall within the period specified therein address the cause of the hazardous situation in conformance with the requirements of this chapter.

Notwithstanding any other provisions of this chapter, whenever it appears to the director that conditions covered by this chapter exist requiring immediate action to protect the public health and/or safety, the director is authorized to enter at all times in or upon any such property, public or private, for the purpose of inspecting and investigating such emergency conditions. The director may without prior notice order the immediate discontinuance of any activity leading to the emergency condition. Failure to comply with such order shall constitute a misdemeanor as specified in K.C.C. 23.08.080. (Ord. 11624 § 5, 1994: Ord. 10636 § 8, 1992).

9.12.070 Criminal penalty. Any willful violation of an order issued pursuant to Section 9.12.050 or Section 9.12.060 of this chapter for which a criminal penalty is not prescribed by state law is a misdemeanor. (Ord. 11624 § 5, 1994: Ord. 10636 § 9, 1992).

9.12.080 Civil penalties for water quality. The enforcement provisions for water quality are intended to encourage compliance with this chapter. To achieve this, violators

will be required to take corrective action and comply with the requirements of this chapter, and may be required to pay a civil penalty for the redress of ecological, recreational, and economic values lost or damaged due to their unlawful action.

A. The provisions in this section are in addition to and not in lieu of any other penalty, sanction or right of action provided by law.

B. Any person in violation of this chapter shall be subject to civil penalties assessed as follows:

1. An amount reasonably determined by the director to be equivalent to the economic benefit the violator derives from the violation as measured by: the greater of the resulting increase in market value of the property or business value received by the violator, or savings of construction or retrofitting costs realized by the violator performing any act in violation of this chapter; and

2. An amount, not to exceed \$25,000, that is reasonably based upon the nature and gravity of the violation and the cost to the county of enforcing this chapter against the violator.

C. Any person who, through an act of commission or omission, aids or abets in a violation shall be considered to have committed the violation for the purposes of the civil penalty.

D. Each violator is jointly and severally liable for a violation of this chapter. The director may take enforcement action, in whole or in part, against any violator. The decisions whether to take enforcement action, what type of action to take, and which person to take action against, are all entirely within the director's discretion. Factors to be used in taking such enforcement actions shall be:

1. Awareness of the violation;
2. Ability to correct the violation;
3. Cooperation with government agencies;
4. Degree of impact or potential threat to water or sediment quality, human health, or the environment.

In the event more than one person is determined to have violated the provisions of this chapter, all applicable civil penalties may be imposed against each person, and recoverable damages, costs, and expenses may be allocated among the persons on any equitable basis. Factors that may be considered in determining an equitable allocation include:

1. Awareness of the violation;
2. Ability to correct the violation;
3. Ability to pay damages, costs, and expenses;
4. Cooperation with government agencies;
5. Degree of impact or potential threat to water or sediment quality, human health, or the environment.

E. The director or the director's designee may engage in mitigation discussions with the violator. The director or the director's designee may reduce the penalties based upon one or more of the following mitigating factors:

1. The person responded to county attempts to contact the person and cooperated with efforts to correct the violation;
2. The person showed due diligence and/or substantial progress in correcting the violation; or
3. An unknown person was the primary cause of the violation.

Payment of a monetary penalty pursuant to this chapter does not relieve the person of the duty to correct the violation.

F. All civil penalties recovered during the enforcement of this chapter under this title and K.C.C. Title 23 shall be deposited into a fund of the division taking the enforcement action and shall be used for the protection of surface and storm water or

ground water as set forth in this chapter, through education or enhanced implementation. (Ord. 16264 § 6, 2008: Ord. 11624 § 5, 1994: Ord. 10636 § 10, 1992).

9.12.090 Construction - Intent. This chapter is enacted as an exercise of the county's power to protect and preserve the public health, safety and welfare. Its provision shall be exempted from the rule of strict construction and shall be liberally construed to give full effect to the objectives and purposes for which it was enacted. This chapter is not enacted to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this chapter.

The primary obligation of compliance with this chapter is placed upon the person holding title to the property. Nothing contained in this chapter is intended to be or shall be construed to create or form a basis for liability for the county, the department, its officers, employees or agents for any injury or damage resulting from the failure of the person holding title to the property to comply with the provisions of this chapter, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this chapter by the county, department, its officers, employees or agents. (Ord. 11624 § 5, 1994: Ord. 10636 § 11, 1992).

9.14 GROUNDWATER PROTECTION

Sections:

- 9.14.010 Intent - local autonomy for groundwater protection.
- 9.14.020 Role of county in groundwater protection.
- 9.14.030 Groundwater protection program.
- 9.14.040 Support for implementation of certified groundwater management plans.
- 9.14.050 Lead agency - responsibilities.
- 9.14.060 Transitional groundwater protection program - plan and budget.
- 9.14.070 Vashon-Maury island groundwater protection committee.
- 9.14.100 Responsibilities of groundwater protection committee.
- 9.14.110 Groundwater protection committee - appointment - vacancies.
- 9.14.120 Groundwater protection committee - operations.
- 9.14.130 Public involvement and outreach - public information - open public meetings - notice.

9.14.010 Intent - local autonomy for groundwater protection. Nothing in this legislation is intended to infringe upon the authority of any jurisdiction or entity for groundwater protection. Funding, policy and staffing decisions for implementation of activities identified in groundwater management plans, certified by the Washington state department of ecology, for King County, municipalities, special purpose districts, sewer and water utilities and associations, and water purveyors are subject to approval and oversight by each entity responsible for implementation of the activities identified in the plans. (Ord. 14214 § 2, 2001).

9.14.020 Role of county in groundwater protection. King County recognizes that the legal authority to regulate withdrawals of groundwater resides with the state of Washington. It is not intended by this legislation for King County to infringe upon or displace the authority of any jurisdiction or entity, including municipalities, special purpose districts, sewer and water utilities and associations and water purveyors, for groundwater protection or extraction or to create any new regulatory authority beyond that which King County currently possesses. (Ord. 14214 § 3, 2001).

9.14.030 Groundwater protection program. Based on available funding, county services are intended to provide groundwater protection, including but not limited to the following activities:

A. Data management, which shall include, but not be limited to, obtaining available data from other local jurisdictions in King County, federal and state agencies and tribal nations; reviewing and mapping data; maintaining a clearinghouse of data on groundwater in King County; and responding to data requests;

B. Groundwater protection planning, which shall include, but not be limited to, assisting with updating groundwater management plans; coordinating groundwater protection activities with water purveyors, water users, tribal nations, adjoining counties where appropriate, the Washington state departments of Health, Ecology, Fish and Wildlife, and other appropriate state and federal agencies; and participating in county activities and forums where groundwater protection may be a significant issue, in areas such as water resource inventory area work and Endangered Species Act work;

C. Coordination of technical expertise in groundwater, including but not limited to geology, hydrology; geophysics and geophysical methods; and mapping;

D. Monitoring countywide tracking of environmental benchmarks in accordance with King County's countywide planning policies;

E. Monitoring and data collection in the Vashon-Maury island and east King County groundwater management areas from existing sampling sites, and monitoring and data collection pilot projects in incorporated and unincorporated areas of King County;

F. Stewardship of groundwater in the unincorporated areas of King County where stewardship services are not provided by special purpose districts, sewer and water utilities and associations and water purveyors;

G. Regional education and public involvement in groundwater protection issues;

H. Development of strategies to prevent the contamination of sensitive aquifer areas from spills of hazardous materials;

I. Identification and mapping of critical groundwater recharge areas and participation in the protection and development of protection or remediation strategies for these areas;

J. Serving as a clearinghouse for groundwater models that address cross-jurisdictional groundwater problems within a groundwater management area or among groundwater management areas;

K. Review and recommendation of health regulations related to groundwater protection;

L. Recommendation of amendments to the countywide planning policies and environmental benchmarks related to groundwater protection;

M. Recommendations of any combination of activities, policies and procedures to public and private entities that have impacts on groundwater or that may be necessary to implement elements of the groundwater protection program; and

N. Development of comprehensive policies that integrate groundwater protection, surface water, stormwater, wastewater and reclaimed water and protect critical water recharge areas. (Ord. 14214 § 4, 2001).

9.14.040 Support for implementation of certified groundwater management plans. Subject to available funding, the King County groundwater protection program shall support implementation of activities identified in the groundwater management plans in King County that have been certified by the Washington state Department of Ecology. (Ord. 14214 § 5, 2001).

9.14.050 Lead agency – department of natural resources* - responsibilities.

A. The department of natural resources and parks shall be the lead agency for King County's groundwater protection program and shall be responsible for the following activities:

1. Oversee implementation of King County's groundwater protection program;
2. Provide staff support to any groundwater protection committee appointed by King County and respond to the committees in a timely manner regarding the adoption of committee recommendations;
3. Identify sources and methods of funding regional groundwater protection services and seek funding for these services;
4. Develop any combination of interlocal agreements, memorandums of understanding and operating agreements with cities, special purpose districts, sewer and water utilities and associations, and water purveyors for implementation of groundwater management plans and regional groundwater protection services in King County. These agreements shall include provisions addressing the scope, governance, structure, funding and transition to implementation of certified groundwater management plans and regional groundwater protection services in King County;
5. Consult with the Washington state Department of Ecology about the feasibility of integrating the goals and implementation of certified groundwater management plans, where possible, with adopted watershed plans to avoid creating redundant work programs;
6. Coordinate with the department of permitting and environmental review for any review required pursuant to K.C.C. Title 21A regarding land use, water use, environmentally sensitive areas and special district overlays, or the exercise of other authorities, that relate to groundwater protection;
7. Coordinate with the Seattle-King County department of public health for work performed pursuant to the King County Board of Health Code Title 10, Solid Waste Handling, Title 11, Hazardous Chemicals, Title 12, Water, Title R12, Water and Title 13, On-site Sewage, or the exercise of other authorities, that relate to groundwater protection;
8. Coordinate with the office of regional policy and planning for work performed pursuant to K.C.C. Title 20, Planning, or the exercise of other authorities, that relate to groundwater protection;
9. Coordinate internally within the department of natural resources for work performed under K.C.C. Title 9, Surface Water Management, K.C.C. chapter 20.70, Critical Aquifer Recharge Areas and K.C.C. Title 28, Water Pollution Abatement and Wastewater Treatment, or the exercise of other authorities, that relate to groundwater protection;
10. In consultation with the department of permitting and environmental review, the Seattle-King County department of public health, and divisions within the department of natural resources, develop an integrated annual work plan that incorporates each of these agencies work programs relative to groundwater protection and that delineates the groundwater protection services provided by King County. A draft annual work plan shall be submitted to any groundwater protection committee appointed by King County for their review and recommendations. The department of natural resources shall distribute the final annual work plan to the King County council, any groundwater protection committee appointed by King County, cities, special purpose districts, sewer and water utilities and associations, water purveyors and other entities that are implementing activities recommended in certified groundwater management plans;
11. Develop a three-year work plan that identifies long-term needs for groundwater protection, in consultation with any groundwater protection committee appointed by King County, cities, special purpose districts, sewer and water utilities and associations, and water purveyors. The work plan should include an examination by the

Seattle-King County department of public health of the effectiveness of the current compliance methodology for violations of regulations governing operation, maintenance and repair of groundwater facilities by public water systems or individuals, and an examination of alternative compliance methodologies that provide for a hierarchy of responses to such violations (e.g. education, site visit, notification, fines, civil penalty, operating restrictions). The work plan shall include an examination of existing county fees or charges for groundwater testing that could reduce any current testing disincentives caused by unaffordability of those fees or charges. The department of natural resources shall distribute the three-year work plan to the King County council, any groundwater protection committee appointed by King County, cities, special purpose districts, sewer and water utilities and associations, water purveyors and other entities that have a role in the three-year work plan;

12. Provide an annual written report on the groundwater protection program. This report shall include, but not be limited to, information from the prior calendar year on groundwater protection services provided by King County, expenditures for the groundwater protection program and recommendations from any groundwater protection committee appointed by King County. By March 31 of each year this report shall be submitted to the King County council and any groundwater protection committee appointed by King County.

B. The King County auditor shall review whether or not groundwater protection services are being provided by King County and provide to the King County council by July 2003 an inventory of groundwater protection services that are provided and are not provided by King County.

C. The regional water quality committee is requested to make recommendations to the King County council between April and September 2003 on the efficacy of the groundwater protection program in King County, including but not limited to the following areas: public outreach, education and stewardship; data management; coordination of groundwater protection activities with all interested entities, users and individuals; regional involvement in the groundwater protection program; development of agreements and funding for regional groundwater protection services, and the role of the department of natural resources in providing groundwater protection services. (Ord. 17420 § 28, 2012: Ord. 14561 § 25, 2002: Ord. 14214 § 6, 2001).

9.14.060 Transitional groundwater protection program - plan and budget.

Thirty days after October 15, 2001, the department of natural resources shall submit to the King County council a written program plan and budget for groundwater protection services for the Vashon-Maury island groundwater management area for the year 2001. This program plan and budget shall be developed in consultation with the Vashon-Maury island groundwater protection committee. (Ord. 14214 § 7, 2001).

9.14.070 Vashon-Maury island groundwater protection committee. The Vashon-Maury island groundwater protection committee is hereby created and shall continue in existence until December 31, 2017. The Vashon-Maury island groundwater protection committee shall be referred to as "the groundwater protection committee" or "the committee" throughout this section.

A. The groundwater protection committee members shall be selected from within the Vashon-Maury island groundwater management plan area and shall consist of the following representatives:

1. One representative from the groundwater advisory committee;
2. One representative from water purveyors;
3. Two representatives from sewer and water utilities and associations;
4. One representative from residential well users;

5. One representative from business owners;
6. One representative from commercial agriculturists;
7. One representative who is a resident of the Vashon-Maury island community;
8. One representative from chambers of commerce; and
9. One representative from local environmental organizations.

B. The county shall invite each of the tribal nations with federally recognized rights within the Vashon-Maury island groundwater management area to recommend candidates for the committee. The committee shall include a representative from each tribal nation with federally recognized rights within the Vashon-Maury island groundwater management area, if the tribal nation provides to the county a candidate for appointment to the committee.

C. Each county abutting the Vashon-Maury island groundwater management plan area boundary shall be requested to provide to the county a candidate for appointment to the committee on an advisory, nonvoting basis.

D. The Seattle-King County department of public health and the Washington state departments of Ecology and Health shall be requested to provide to the county a candidate for appointment to the committee on an advisory, nonvoting basis.

E. Each member of the committee shall coordinate internally with the entity the member represents. (Ord. 17750 § 1, 2014; Ord. 17416 § 4, 2012; Ord. 16724 § 1, 2009; Ord. 15082 § 1, 2005; Ord. 14214 § 8, 2001).

9.14.100 Responsibilities of groundwater protection committee. Any groundwater protection committee appointed by King County shall meet at least three times a year to advise the King County executive and council on King County's groundwater protection program and shall advise elected officials from King County, municipalities, special purpose districts, water and sewer utilities and associations and water purveyors on implementation of the certified groundwater management plan for each committee's groundwater management area and shall also carry out the following tasks:

A. Perform tasks as assigned to the committee pursuant to the certified groundwater management plan;

B. Review and make recommendations on King County's annual groundwater protection work plan and the three-year work plan that identifies long-term needs for regional groundwater protection services;

C. Participate in and monitor implementation of the certified groundwater management plan;

D. Develop and recommend modifications and updates to the certified groundwater management plan, including addressing any unresolved issues in the certified groundwater management plan;

E. Coordinate community groundwater protection activities in conjunction with the county, municipalities, special purpose districts, water and sewer utilities and associations and water purveyors, in particular public education, public involvement and stewardship activities. The committee may work with other local jurisdictions and community organizations in coordinating these activities;

F. Provide an annual status report on the following activities: implementation of groundwater protection services in King County; implementation of the certified groundwater management plan, including groundwater protection activities of cities, special purpose districts, sewer and water utilities and associations, and water purveyors within the groundwater management area; efforts to develop interlocal or other agreements relative to implementation of regional groundwater protection services; and trends in groundwater issues;

G. Make recommendations on the distribution and use of aquifer protection funds, as these funds become available;

H. Recommend amendments to the countywide planning policies that relate to groundwater protection;

I. Recommend groundwater protection services tailored to the unique needs of the groundwater management area and policies; and

J. Provide advice on state groundwater regulation. (Ord. 14214 § 11, 2001).

9.14.110 Groundwater protection committee - appointment - vacancies.

A. The executive shall make initial appointments to a groundwater protection committee, subject to confirmation by the King County council by motion, with members serving staggered terms of not more than three years. The executive shall appoint members from candidates recommended by the council member or members representing the council district or districts in which the groundwater management planning area is located.

B. Except as otherwise provided in subsection C. of this section, the executive shall appoint any member filling a vacancy on a groundwater protection committee, subject to confirmation by the King County council by motion, in accordance with K.C.C. chapter 2.28.

C. The representatives for each city on the Redmond-Bear Creek groundwater protection committee shall be nominated and confirmed by the respective city. (Ord. 15082 § 5, 2005: Ord. 14214 § 12, 2001).

9.14.120 Groundwater protection committee - operations.

A. The department of natural resources shall develop model bylaws governing the operations of the committee, which shall be used as guidelines for the committee to adopt as bylaws. The committee shall adopt bylaws governing the operations of the committee. Decisions of the committee shall be by consensus whenever possible. Procedures for resolving lack of consensus shall be included in the bylaws. If consensus cannot be reached on a committee's recommendation, opposing views may be included in the committee's recommendations.

B. In coordination with the county, municipalities, special purpose districts, water and sewer utilities and associations, and water purveyors, the committee should solicit information and participation from experts and interested parties as necessary. The committee may make use of subcommittees to accomplish some tasks. Federal and state agencies may be asked to serve in a technical capacity, as appropriate, on the subcommittees. Water purveyors relying on a groundwater source may be asked to contribute to technical subcommittees. (Ord. 14214 § 13, 2001).

9.14.130 Public involvement and outreach - public information - open public meetings - notice. The committee and department of natural resources shall identify individuals, groups, agencies and elected officials with an interest in groundwater protection. The committee and department of natural resources shall keep these interested parties informed of progress in implementation of certified groundwater management plans and King County's groundwater protection program. The committee's meetings shall be open to the public. If the committee or the department of natural resources is aware of a party that has an interest in a topic being considered by the committee, the party should be invited to attend committee meetings when that item will be considered. (Ord. 14214 § 14, 2001).

9.20 FERTILIZERS

Sections:

- 9.20.010 Definitions.
- 9.20.020 Fertilizers containing phosphorous - application - prohibited - exceptions - department of natural resources and parks to adopt standards and procedures.
- 9.20.030 Fertilizers on impervious surfaces - application prohibited - containment and disposition if release.
- 9.20.040 Consumer education and outreach by department of natural resources and Parks.

9.20.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

A. "Department" means the county department of natural resources and parks.

B. "Fertilizer" means any substance containing one or more recognized plant nutrients, and that is either used for its plant nutrient content or is designated for use or claimed to have value in promoting plant growth, or both. "Fertilizer" includes gypsum and manipulated animal and vegetable manures. "Fertilizer" does not include:

1. Unmanipulated animal and vegetable manures and other products exempted by the department by rule;

2. Calcium carbonate (lime) and anhydrous ammonia; and

3. Materials including, but not limited to, compost biosolids, municipal sewage sludge or slow release fertilizer used in compliance with best practices developed by the department of natural resources and parks, or products derived therefrom, that are regulated under chapter 70.95 or 70.95J RCW, or rules adopted thereunder.

B. "Impervious surface" means a highway, street, sidewalk, parking lot, driveway or other artificial surface that prevents infiltration of water into the soil.

C. "Turf" means noncrop land planted in closely mowed, managed grasses on residential property. "Turf" does not include managed pasture, hayland, hay, turf grown on turf farms, home or commercial vegetable production, horticultural beds, flower beds, general landscaping or any other form of agricultural production. (Ord. 16392 § 4, 2009).

9.20.020 Fertilizers containing phosphorous - application - prohibited - exceptions - department of natural resources and parks to adopt standards and procedures.

A. Except as provided in subsection B. of this section, a person may not apply to turf a fertilizer containing the plant nutrient phosphorus.

B. Subsection A. of this section does not apply when:

1. Soil test results or other certification by a turf specialist performed within the three years previous to the application indicates that the level of available phosphorus in the soil is insufficient to support healthy turf growth, and the test results or certification, and the application rate, are consistent with best practice standards approved by the county department of natural resources and parks. In developing the best practice standards, the department shall seek input from the Washington State University turfgrass specialists;

3. The property owner or an agent of the property owner is first establishing turf via seed or sod procedures and only during the first calendar year;

4. The fertilizer containing the plant nutrient phosphorus is applied to a golf course consistent with golf course management practices intended to minimize

potential for fertilizer runoff; or

5. Applying turf fertilizer for agricultural or horticultural uses.

C. The department of natural resources and parks shall adopt appropriate standards and procedures for the purposes of subsection B.2. of this section. (Ord. 16392 § 5, 2009).

9.20.030 Fertilizers on impervious surfaces - application prohibited - containment and disposition if release. A person may not apply a fertilizer to an impervious surface. Fertilizer released on an impervious surface must be immediately contained and either legally applied to turf or another legal site or returned to the original container or another appropriate container. (Ord. 16392 § 6, 2009).

9.20.040 Consumer education and outreach by department of natural resources and parks. The Department of Natural Resources and Parks shall seek to identify opportunities for grant funding and partnerships to support a consumer education and outreach effort, making use of existing outreach materials produced by other entities to the extent possible. If the state Department of Agriculture produces consumer information on application restrictions of fertilizer containing the plant nutrient phosphorus or on the impacts of phosphorus on the waters of the region, and on recommended best practices for turf fertilizer and other residential landscaping uses, the department of natural resources and parks shall cooperate in the distribution of the information, including making recommendations for appropriate locations or parties to receive such information, as well as accommodating electronic links on its agency website for any electronic information produced. (Ord. 16392 § 7, 2009).